XXXIII. j. 24

THE

TRIAL

OF

JAMES O'COIGLY, otherwiſe called JAMES QUIGLEY, otherwiſe called JAMES JOHN FIVEY,

ARTHUR O'CONNOR, Eſq. JOHN BINNS, JOHN ALLEN, and JEREMIAH LEARY,

FOR

High Treaſon,

UNDER A SPECIAL COMMISSION,

AT MAIDSTONE, IN KENT,

On Monday the Twenty-firſt, and Tueſday the Twenty-ſecond Days of May, 1798.

TAKEN IN SHORT-HAND,

BY JOSEPH GURNEY.

LONDON:

SOLD BY M. GURNEY, BOOKSELLER, HOLBORN-HILL.

1798.

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THE

TRIAL

OF

JAMES O'COIGLY, otherwiſe called JAMES QUIGLEY, otherwiſe called JAMES JOHN FIVEY,

ARTHUR O'CONNOR, Eſq. JOHN BINNS, JOHN ALLEN, and JEREMIAH LEARY,

FOR

HIGH TREASON.

ON the 28th of February, 1798, the Priſoners were apprehended at Margate.

On the 6th of March the Priſoners were committed to the Tower, by Warrant from his Grace the Duke of Portland, one of his Majeſty's Principal Secretaries of State, on a charge of High Treaſon.

On the 19th of March a Special Commiſſion of Oyer and Terminer iſſued under the Great Seal of Great Britain, to enquire of certain High Treaſons and Miſpriſions of Treaſon committed within the County of Kent, and a Special Commiſſion of Gaol Delivery as to all Perſons who were or ſhould be in cuſtody for ſuch offences on or before the 10th of April following.

On the 7th of April the Priſoners were removed by Habeas Corpora from the Tower to the County Gaol at Maidſtone.

On the 10th of April the Special Commiſſions were opened at the Seſſion Houſe at Maidſtone—Preſent, The Right Honourable Lord Romney, Lord Lieutenant of the County; The Honourable Sir Francis Buller, Baronet; and the Honourable John Heath, Eſq. two of the Juſtices of his Majeſty's Court of Common Pleas; after which the Court adjourned to the next morning.

On the 11th of April the Court met, purſuant to adjournment; the Sheriff delivered in the pannel of the Grand Jury, which was called over, when the following Gentlemen were ſworn

THE GRAND JURY.

Sir Edward Knatchbull, Baronet.

Sir John Gregory Shaw, Baronet.
Sir John Dixon Dyke, Baronet.
Sir William Geary, Baronet.
Charles Townſend, Eſq.
Henry Oxendon, Eſq.
William Hammond, Eſq.
George Polhill, Eſq.
Nicholas Roundell Toke, Eſq.
Lewis Gage, the younger, Eſq.
Edward Auſten, Eſq.
George Grote, Eſq.
George Children, Eſq.
Francis Motley Auſten, Eſq.
Edward Huſſey, Eſq.
John Larkin, Eſq.
Thomas Brett, Eſq.
Edward Peach, Eſq.
Henry Woodgate, Eſq.
William Francis Woodgate, Eſq.
James Chapman, Eſq.
George Smith, Eſq.
George Talbot Hatley Foote, Eſq.

MR. JUSTICE BULLER.

Gentlemen of the Grand Jury,

AS we are convened here under a commiſſion which his Majeſty has been pleaſed to direct for a ſpecial purpoſe, and not in the ordinary courſe of an Aſſize, it may naturally be expected that I ſhould ſay ſomething on the occaſion of our being thus aſſembled. To enable me to do that, I have no guide but the commiſſions which I bear, for no depoſitions are returned here according to the univerſal practice of an Aſſize. Probably that has ariſen from the circumſtance that indictments for Treaſon are uſually prepared by the immediate Officers of the Crown, and not by the Officers of this Court. In many caſes a different practice might be uſeful, becauſe it is as material in Treaſon as it is in Felony, that the Court ſhould be enabled to point out to a Grand Jury the leading features of the caſes which are ſubmitted to their conſideration, and the circumſtances to which it is moſt eſſential for them to apply their attention, when they conſider the effect and bearing of the evidence which may be brought before them.

At preſent I know not any of the circumſtances which are likely to be adduced againſt the priſoners, and therefore I can only deliver to you the Law in general terms, as I find it laid down in our books, with the hope that ſome obſervations or other may be of aſſiſtance to you in the inquiries which you will have to make. If they ſhould be found not to be applicable to the caſes brought before you, and any queſtions ſhould ariſe on which you may be deſirous of obtaining information, the Court will at all times be ready to give you every aſſiſtance in their power.

From the commiſſions we learn that our enquiries are to be confined to the crimes of High Treaſon and Miſpriſion of Treaſon. It was the happineſs of this country for a conſiderable ſeries of years to be almoſt a ſtranger to the crime of Treaſon, until the new principles and opinions which have been adopted in France unfortunately miſled the minds of many unthinking people, and alſo furniſhed the diſcontented in this country with

what they thought the probable means of ſubverting our exiſting laws and conſtitution, and introducing the ſyſtem of anarchy and confuſion which has fatally prevailed there. Powerful as theſe opinions have been in their effect in France, they cannot make way with the conſiderate part of this country; becauſe they would deſtroy a conſtitution, under which experience has ſhewn that men may live happily if they pleaſe, and they would eſtabliſh nothing in its room which can ſecure the freedom, the liberty, or the property of the members of the community.

In our preſent ſtate we have no danger to fear from the power of the Supreme Magiſtrate: he muſt on all occaſions act by the advice or intervention of others, who can derive no authority from him which the laws do not ſanction, and who are reſponſible for the advice they may afford, and puniſhable for the evil counſel they may give. No law can here be made to which the Legiſlature themſelves will not be equally liable with every other ſubject; and no better ſecurity can be deviſed againſt oppreſſive laws, than the certainty that if they be ſo, their makers will ſuffer by them.

There is not in this country one rule by which the rich are governed, and another for the poor. No man has juſtice meted out to him by a different meaſure on account of his rank or fortune, from what would be done if he were deſtitute of both. Every invaſion of property is judged of by the ſame rule; every injury is compenſated in the ſame way; and every crime is reſtrained by the ſame puniſhment, be the condition of the offender what it may. It is in this alone that true equality can exiſt in ſociety. Different degrees are neceſſary for every Government; and greater talents and induſtry will in the courſe of things give one man a ſuperiority over another; and without ſome diſtinction and rank, the Magiſtrate would want authority; virtue would be without one of its ſtrongeſt incentives; and the prudent and induſtrious would remain on a footing with the idle and the diſſipated.

If this be a fair deſcription of the advantages of our Conſtitution, it may be thought impoſſible that any number of perſons in this country ſhould wiſh to adopt any other form of Government. But it is the obſervation of a very wiſe man, that "he

who goeth about to perſuade a multitude that they are not ſo well governed as they ought to be, ſhall never want attentive and favourable hearers, becauſe they know the manifold defects whereunto *every kind* of regimen is ſubject: but the ſecret lets and difficulties which in public proceedings are innumerable and *inevitable*, they have not ordinarily the judgment to conſider."

Among the unthinking and thoſe who do not take a comprehenſive view of the ſubject, much miſchief may be done by artful and deſigning men, who aggravate the defects of one Conſtitution, and dwell only on the advantages of others, and notwithſtanding the imperfections of human wiſdom, requiring unerring conduct from their Governors, imputing every miſchief of chance to ill deſign and corruption; and as a correction of all thoſe evils, they teach the people that the Government ought to be in their hands. They whom this latter argument may allure, would do well to conſider whether any change of Government can really better the condition of the body of the people. The actual exerciſe of power muſt, from its nature, be veſted in a few; it may ſhift, where there is no Monarchy, from the hands of one contending party to thoſe of another; but the maſs of the people muſt remain as they are, employed at the plough, the anvil, the loom, or in ſome occupation which will afford a maintenance and ſupport. There is nothing which prevents men of abilities equal to great ſituations from obtaining in this country the higheſt offices and honours, of which the inſtances are numerous in every department.

But as no State can gratify the ambition and views of every one, who may feel his fortune wearing away, think his merit neglected, or his abilities employed on ſubjects below them; men of this deſcription will look for times of trouble and confuſion, as affording them opportunities which in the regular courſe of ſettled Government cannot ariſe; when they may obtain in a day what no length of labour could have procured without the aſſiſtance of chance; when they may riſe to ſudden elevation by the downfall of others; and when from the general miſery of their country, they may by poſſibility advance their own private intereſt. To guard againſt the machinations of

ſuch reſtleſs and turbulent ſpirits, the Common Law, and the Statute Law of the land have made various proviſions, at the head of which the code of Criminal Law relating to High Treaſon is to be found.

High Treaſon by the Old Law of the land is ſaid to conſiſt in the imagination of the heart: but our Anceſtors wiſely provided that no man ſhould be tried for ſecret intentions only, and that any crime, of which he was accuſed, ſhould not only be manifeſted by overt acts, but that ſuch overt acts ſhould be charged in the indictment, in order that the ſuppoſed offender might be apprized of the nature of the caſe intended to be proved againſt him, and be prepared to give it ſuch an anſwer as the truth would admit. This is one of the various inſtances in which our forefathers have been zealous to found a Conſtitution which might preſerve to their poſterity the ſafety of their lives, and the ſecurity of their liberties, provided only that they kept themſelves within the bounds of laws common to all, and made for the benefit of all.

Of the different kinds of Treaſon which are comprized within the Statute of the 25 Edward III, I preſume it will ſuffice for every purpoſe of the preſent enquiry to ſelect theſe two. Firſt, The compaſſing or imagining the death of the King; and, Secondly, adhering to the King's Enemies, giving them aid and comfort within the realm or without. I will alſo take ſome notice of two very modern Statutes which may or may not be found applicable to theſe caſes.

Beſides the groſſer caſes of an immediate attack on the King's perſon, with a view to deprive him of life, there are many others which have been holden at all times to be overt acts of compaſſing and imagining his death. *Conſpiring* againſt the King's life,—Sending letters to invite other perſons to provide weapons to effectuate his death,—Meeting and conſulting, or printing treaſonable poſitions, to prove that the people ought to take the Government into their own hands, or any other acts which have a manifeſt tendency to endanger his perſon, are overt acts to prove the compaſſing of his death.—And on this ground it has been determined that concerting with Foreigners or others to procure an Invaſion of

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the Kingdom, going abroad for that purpoſe, or even intending ſo to do, and taking any ſteps in order thereto, are overt acts of compaſſing the King's death. The mere taking boat in order to go on board a veſſel with intention to go to France for the purpoſe of perſuading the French to invade this Kingdom, has been ſolemnly determined to be a ſufficient overt act. Theſe points have been long decided by Judges eminently friendly to the principles of the Revolution, and the liberty of the ſubject, among whom was Lord Chief Juſtice Holt, who was as ſound a Lawyer as moſt who ever preſided in Weſtminſter Hall, and who bore a conſiderable part in bringing about the Revolution itſelf.

Under the head of adhering to the King's Enemies, it might be ſufficient to ſay that, any act by which it is intended to ſtrengthen the Enemy, and to weaken the King's hands, is adhering to the King's Enemies. The bare ſending or conveying money, proviſions, or intelligence, in order to be conveyed to the enemy, though the money or intelligence happens to be intercepted, and never gets to the hands of the enemy, has alſo been determined to be an act of treaſon. The reaſon aſſigned for which is, that the party in ſending it did all he could, and the Treaſon was complete on his part, though it had not the effect he intended; in other words the ſending, carrying or removing money, or intelligence for the purpoſe mentioned is an overt act, which marks and indicates the traiterous imagination of the heart.

In Treaſon, all concerned are principals. Where many are acting together in the ſame traiterous deſigns, the act of each in purſuance of that deſign, is the act of the others, and all are equally guilty. Many acts in their nature can only be committed by the hand of one, but ſtill they are rightly conſidered as the acts of all, who are privy and conſenting to the deſign: and mens being in the ſame company when the deſign is in agitation, is a great evidence of their knowledge and conſent.

Indictments for High Treaſon generally run to a conſiderable length: for firſt they ſtate the kind of treaſon which is imputed to the priſoner, and then they ſtate the ſeveral facts done by the priſoner, which are intended to be eſtabliſhed by evidence as

proofs

proofs of the treaſon which is charged. Thoſe are called overt acts, and are the moſt material for the attention of a Jury. Though many ſuch acts are charged in an indictment, yet if any one is ſatisfactorily proved, that is ſufficient to convict the offender.

The ſtatutes to which I alluded are, firſt, an act of the thirty-third year of the preſent King's reign, chapter the thirty-ſeventh, entitled *An Act more effectually to prevent, during the preſent War between Great Britain and France, all traitorous correſpondence with, or aid or aſſiſtance being given to, his Majeſty's Enemies.* By that ſtatute amongſt other things it is enacted, that if any perſon ſhould procure, for the purpoſe of being ſent into France, any arms, ſtores, bills, gold or ſilver coin, or other articles therein mentioned, without licenſe of the King or Council, he ſhall be deemed a traitor, and ſuffer death as ſuch, except it be under different circumſtances, which can hardly apply to any caſe that can be brought before you.

The effect of that ſtatute ſeems to me to be only to make the obtaining money and goods for the purpoſe of being ſent into France, though never ſent there, a diſtinct and poſitive treaſon, inſtead of being an overt act only of treaſon, as it was before the paſſing of that ſtatute.

The other ſtatute is an act made in the thirty-ſixth year of the reign of his preſent Majeſty, by which it is enacted, " that if any perſon ſhall compaſs, imagine or intend the death or deſtruction, or any bodily harm tending to death or deſtruction, maim, or wounding, impriſonment or reſtraint of the perſon of the King, or to deprive or depoſe him from the ſtyle, honour, or kingly name of the imperial crown of this realm, or of any other of his Majeſty's dominions or countries, or to levy war againſt the King within this realm, in order by force or conſtraint to compel him to change his meaſures or counſels, or in order to put any force or conſtraint upon, or intimidate or overawe both Houſes, or either Houſe of Parliament, or to move or ſtir any foreigner or ſtranger with force to invade this Realm, or any other of his Majeſty's Dominions, or Countries, under the obeiſance of his Majeſty, and ſhall expreſs the ſame by publiſhing any printing, or writing, or by

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any overt act, or deed, every ſuch perſon ſhall be deemed a Traitor.

Whether this Statute be merely an affirmance of the Common Law, or whether like the former one it makes thoſe acts ſpecific Treaſons which before were only overt acts of Treaſon, is at this moment at leaſt immaterial to diſcuſs. —Even if in any inſtance it has made that Treaſon which was not ſo previous to the act, yet the principle of the bill has followed up what was the Law before: and if there were a poſſibility of doubt what the Law was before this Statute, or the meaneſt capacity was not likely to comprehend it, the Legiſlature undoubtedly acted wiſely and humanely in making the Law ſo plain, that no man could help underſtanding it.

I am not aware that there is any commitment for Miſpriſion of Treaſon, and therefore I ſhall not detain you by any diſcuſſion of that offence.

Gentlemen, If theſe obſervations ſhould in any degree tend to afford you relief or information in the courſe of your enquiries, the end and object of them will be fully anſwered: and if they do not, I hope I have not occupied any inordinate portion of your time.

On the ſame day the Grand Jury returned a true Bill againſt James O'Coigly, otherwiſe called James Quigley, otherwiſe called James John Fivey; Arthur O'Connor, Eſq. John Binns, John Allen, and Jeremiah Leary, for High Treaſon.

On the 12th of April the Court met purſuant to adjournment.—The Priſoners were ſet to the Bar.

Mr. Juſtice Buller informed the Priſoners an indictment had been found againſt them for High Treaſon, and that copies of that indictment would ſoon be delivered to them; that the Court propoſed to adjourn to the 30th inſtant, when they would be arraigned, and their Trials would probably be brought on the next day.

Mr. O'Connor ſtated that from the cloſe confinement in which

which he had been kept he had not had an opportunity of learning whether there would be any thing informal in his applying to have his trial put off;—that not yet knowing what was the charge againſt him, he could not tell whether it might not be neceſſary for him to ſend to Ireland for ſome witneſſes; but requeſted information from the Court.

Mr. Juſtice Buller ſaid that it would not be informal, if he could make out a proper caſe for it, but adviſed him not to rely implicitly upon it.

At the requeſt of the ſeveral priſoners, Mr. Gurney was aſſigned by the Court of Counſel for John Binns, Mr. Ferguſſon of Counſel for John Allen, and Mr. Scott of Counſel for Jeremiah Leary.

The Attorney General moved that the Sheriff be required to deliver to Mr. White, the Solicitor for the Treaſury, who is to proſecute for the Crown, a liſt of the perſons returned to ſerve on the Jury, which was accordingly directed.

On the 17th of April Mr. White, Solicitor for the Treaſury, cauſed to be delivered to each of the priſoners a copy of the caption and indictment, a liſt of the Petit Jurors returned by the Sheriff, and a liſt of the witneſſes to be produced by the Crown for proving the ſaid indictment.

On the 28th of April, at the requeſt of the priſoners, Mr. Plumer was aſſigned of Counſel, for James O'Coigly, and Arthur O'Connor, and Mr. Dallas of Counſel for all the Priſoners.

SESSION-HOUSE, MAIDSTONE.

Monday, April 30th, 1798.

The Court met purſuant to adjournment.

PRESENT,
The Right Honourable Lord ROMNEY.
The Honourable Sir FRANCIS BULLER, Bart.
And the Honourable JOHN HEATH, Eſq.
Two of the Juſtices of his Majeſty's Court of Common Pleas.
Sir SOULDEN LAWRENCE, Knt.
One of the Juſtices of his Majeſty's Court of King's Bench.
And SAMUEL SHEPHERD, Eſq;
One of his Majeſty's Serjeants at Law.

James O'Coigly, otherwiſe called *James Quigley*, otherwiſe called *James John Fivey*, *Arthur O'Connor*, Eſq; *John Binns*, *John Allen*, and *Jeremiah Leary*, were ſet to the bar.

The Counſel for the Priſoners ſtated that there were ſeveral variations in the Copies of the Indictment which had been delivered to the Priſoners, but at the ſame time mentioned that they made the objection with a view to poſtpone the trial.—The following Affidavits being put into Court, and the Attorney General conſenting to the trials being poſtponed till the 21ſt of May, the Counſel for the Defendants waved their objections, and the priſoners were immediately arraigned upon the Indictment, to which they ſeverally pleaded not guilty.

Kent to wit.——The King againſt James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey, Arthur O'Connor, Eſq; John Binns, John Allen, and Jeremiah Leary.

James Coigly, ſued by the ſeveral names above mentioned, and the above named Arthur O'Connor, John Binns, John Allen, and Jeremiah Leary, all now priſoners in the gaol at Maidſtone, in the County of Kent; John Simmons, of Rocheſter,

cheſter, in the County of Kent, Solicitor for the ſaid Arthur O'Connor and Jeremiah Leary; John Auguſtus Bonney, of Percy-ſtreet, in the Pariſh of St. Pancras, in the County of Middleſex, Solicitor for the ſaid John Binns and John Allen; and John Foulkes, of Hart-ſtreet, in the Pariſh of St. George, Bloomſbury, in the ſaid County of Middleſex, Solicitor for the ſaid James Coigly, ſeverally make oath and ſay—

And firſt the ſaid Arthur O'Connor for himſelf ſaith, that William Cox, gun-ſmith, —— Chambers, bookſeller, —— Drennan, Doctor of Phyſic, Jeremiah Haſſett, warden of the tower of Dublin, Eleanor Haſſett, wife of the ſaid Jeremiah Haſſett, Matthew Smith, gent. Wm. Dowdall, gent. General Hutchinſon, —— Mercer, Eſq; General Richard Cradock, and Standiſh O'Gready, are material witneſſes for him this Deponent, without whoſe teſtimony he cannot ſafely proceed upon his defence at the trial of this indictment. And this Deponent further ſaith, that the ſaid William Cox, —— Chambers, —— Drennan, Jeremiah Haſſett, Eleanor Haſſett, Wm. Dowdall, ——— Mercer, General Richard Cradock, and Standiſh O'Gready, are reſident in the City of Dublin, in the Kingdom of Ireland; and that the ſaid Matthew Smith is reſident at Belfaſt, in the ſaid Kingdom of Ireland; and that the ſaid General Hutchinſon is reſident at the head quarters of the army in the ſaid Kingdom of Ireland.

And the ſaid James Coigly for himſelf ſaith, that Bernard Coile and Valentine Derry are material witneſſes for him this Deponent, without whoſe teſtimony he cannot ſafely proceed upon his defence at the trial of this indictment. And this Deponent further ſaith, that the ſaid Bernard Coile and Valentine Derry are both reſident in or near the City of Dublin.

And the ſaid Arthur O'Connor and James Coigly, John Binns, John Allen, and Jeremiah Leary, further ſeverally ſay, that being kept in cloſe confinement, without acceſs to perſons or papers, they were not acquainted with the nature of the charges againſt them, and did not know what witneſſes they ſhould reſpectively have occaſion to produce on their behalf until the delivery of the copy of the indictment, and of

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the liſt of witneſſes on the part of the proſecution, and that the ſame were delivered to theſe Deponents reſpectively at or about nine of the clock in the evening of the 17th day of April, inſtant, and not before.

And theſe Deponents Arthur O'Connor and James Coigly further ſeverally ſay, that immediately after the delivery of the copies of the ſaid indictment and liſt of witneſſes they reſpectively conſulted their ſaid Solicitors relative to the ſending a proper perſon to Ireland for the purpoſe of procuring the attendance of the ſaid witneſſes on their reſpective behalfs upon the trial of this indictment.

And this Deponent John Simmons for himſelf ſaith, that he ſent a copy of the ſaid indictment and liſt of witneſſes to London in the morning of the 18th day of April inſtant, for the conſideration and advice of Thomas Plumer and Robert Dallas, Eſqrs. the Counſel intended to be aſſigned for the ſaid Arthur O'Connor and James Coigly; and that the ſaid John Foulkes, another of the above named Deponents, arrived at Maidſtone on the night of the ſaid 18th inſtant, and informed this Deponent that the ſaid Counſel, ſo as aforeſaid intended to be aſſigned for the ſaidArthur O'Connor and James Coigly, were of opinion that the attendance of the ſaid witneſſes on behalf of the ſaid Arthur O'Connor and James Coigly reſpectively was material and neceſſary; and this Deponent further ſaith that in conſequence thereof he this Deponent did on the morning of the 19th day of April inſtant, obtain from the ſaid Arthur O'Connor the addreſſes of the ſaid ſeveral witneſſes on his behalf, with inſtructions to ſend immediately to Ireland for the purpoſe of procuring their attendance on his behalf at the ſaid trial, and that he delivered the ſaid addreſs and inſtructions to the ſaid John Foulkes to be forwarded by a proper perſon to Ireland.

And this Deponent John Foulkes for himſelf ſaith that he did on the morning of the ſaid 19th day of April inſtant, obtain from the ſaid James Coigly the addreſſes of the ſaid witneſſes to be produced on his behalf, with inſtructions to ſend the ſame by the perſon intended to be employed by or on the behalf of theſaid Arthur O'Connor, to Ireland, to procure their attendance

attendance on his behalf on the ſaid trial; and that he this Deponent did on the ſame day receive from the ſaid John Simmons the addreſſes of the ſaid witneſſes of the ſaid Arthur O'Connor, with the ſaid inſtructions of the ſaid Arthur O'Connor relating thereto.

And this Deponent further ſaith that he immediately delivered the ſaid ſeveral addreſſes and inſtructions ſo received by him from the ſaid James Coigly and John Simmons reſpectively, to John Auguſtus Bonney another of the ſaid Deponents, to be taken immediately by him to London and to be forwarded from thence without delay by a proper perſon to Ireland, for the purpoſes aforeſaid.

And the ſaid John Auguſtus Bonney for himſelf ſaith that he did ſet out by the firſt coach that went from Maidſtone after he received the ſaid addreſſes and inſtructions, and arrived in London about nine of the clock in the evening of the ſaid 19th inſtant; and that this Deponent on the morning of the 20th inſtant made enquiries for a proper perſon to be ſent to Ireland to procure the attendance of the ſaid witneſſes, but that he was not able to procure ſuch perſon, whereupon a ſpecial meſſenger was ſent to Maidſtone aforeſaid to deſire the ſaid John Foulkes to come to town immediately for the purpoſe of his going to Ireland to procure the attendance of the ſaid witneſſes.

And this Deponent John Foulkes for himſelf further ſaith that at or about ſeven o'clock in the evening of the ſaid 20th day of April inſtant, he this Deponent received a letter by a ſpecial meſſenger deſiring this Deponent to ſet out for London the moment he received the ſame, as it was neceſſary he ſhould go to Ireland, and it could not be diſpenſed with, and alſo informing this Deponent that the ſaid meſſenger had been directed to order horſes for him this Deponent on the road, which the ſaid meſſenger informed this Deponent he had done accordingly; and this Deponent further ſaith that being too ill to undertake the journey he ſent back a letter to that effect immediately by the ſame meſſenger to inform the Counſel of the ſaid Defendants thereof, and that he this Deponent would nevertheleſs be in London thereupon early the next morning, which ſaid laſt mentioned letter this Deponent gave the ſaid meſſenger

meſſenger ſtrict orders to deliver that night without fail, with inſtructions to order horſes to be ready for this Deponent on the road early the next morning.

And Deponent further ſaith that he did accordingly ſet out from Maidſtone in a chaiſe the next morning, at or before ſix o'clock, and on his arrival in London made enquiries for ſeveral perſons whom he thought fit and proper to be ſent to Ireland for the purpoſes aforeſaid, but that no ſuch perſon was found till the afternoon of that day, when Joſhua Lucock Wilkinſon, of Gray's Inn, in the County of Middleſex, Attorney at Law, agreed to go for the ſaid purpoſes; and this Deponent ſaith, that about ſix o'clock in the evening of that day, he this Deponent delivered the ſaid addreſſes of the ſaid ſeveral witneſſes, together with the ſaid inſtructions ſo received by this Deponent from the ſaid James Coigly and John Simmons as aforeſaid, to the ſaid Joſhua Lucock Wilkinſon, who ſet out that evening by the mail coach for Ireland, with the ſaid addreſſes and inſtructions as Deponent is informed and verily believes, and alſo with inſtructions to return with all poſſible expedition, and that the ſaid Joſhua Lucock Wilkinſon is not yet returned from the ſaid journey; and the ſaid Arthur O'Connor and James Coigly further ſeverally ſay they reſpectively believe that the ſaid ſeveral perſons will attend as witneſſes on their reſpective behalfs upon the ſaid trial, if this Honorable Court will allow a ſufficient time for their arrival from Ireland.

And laſtly, the ſaid John Binns, John Allen, and Jeremiah Leary, for themſelves ſeverally ſay, they are adviſed by their Counſel and verily believe that the ſaid witneſſes from Ireland, intended to be produced by or on behalf of the ſaid Arthur O'Connor and James Coigly, are material witneſſes for each of theſe Deponents, without whoſe teſtimony they could not ſafely proceed upon their reſpective defences at the trial of this indictment.

All the eight Deponents were ſworn in Court, at Maidſtone, in the County of Kent, the 30th April, 1798, before F. BULLER.

James Coigly.
A. O'Connor.
John Binns.
John Allen.
J. Leary.
J. Simmons.
J. Aug. Bonney.
John Foulkes.

Kent to wit.—The King againſt James O'Coigly, otherwiſe called James Quigley, otherwiſe called James John Fivey, Arthur O'Connor, Eſq; John Binns, John Allen, and Jeremiah Leary.

James Coigly, ſued by the ſeveral names above mentioned, and the above named Arthur O'Connor, John Binns, John Allen, and Jeremiah Leary, all now priſoners in the gaol at Maidſtone, in the County of Kent, ſeverally make oath—

That the application made to this Honorable Court, for putting off the trials of theſe Deponents reſpectively, is not made for the purpoſe of delay, but merely on account of the materiality of the evidence of the ſeveral witneſſes, mentioned in the other affidavit made by theſe Deponents, in this proſecution, who are expected from Ireland on behalf of theſe Deponents reſpectively, and without whoſe teſtimony they cannot ſafely proceed upon their reſpective defences to this indictment.

All the five Deponents were ſworn in Court at Maidſtone, in the County of Kent, the 30th April, 1798, before F. BULLER.

James Coigly.
A. O'Connor.
John Binns.
John Allen.
Jeremiah Leary.

CAPTION. [Kent, to wit.] Be It Remembered, That at a Special Seſſion of Oyer and Terminer and Gaol Delivery holden at Maidſtone in and for the County of Kent on Tueſday the tenth Day of April in the thirty-eighth Year of the Reign of our Sovereign Lord George the Third King of Great Britain and ſo forth Before the Honourable Sir Francis Buller Baronet one of the Juſtices of our ſaid Lord the King of his Court of Common Pleas the Honourable John Heath Eſquire one other of the Juſtices of our ſaid Lord the King of his Court of Common Pleas and others their fellows Juſtices and Commiſſioners of our ſaid Lord the King aſſigned by Letters Patent of our ſaid Lord the King under the Great Seal of Great Britain to the ſaid Sir Francis Buller John Heath

Heath and others their fellows Juſtices and Commiſſioners of our ſaid Lord the King and to any two or more of them made and directed of whom one of them the ſaid Sir Francis Buller and John Heath or of others in the ſaid Letters Patent named our ſaid Lord the King willed to be one to enquire by the Oath of Good and Lawful Men of the County aforeſaid of all High Treaſons and Miſpriſions of High Treaſon other than ſuch as relate to the Coin of our ſaid Lord the King within the County aforeſaid as well within Liberties as without by whomſoever and in what manner ſoever done committed or perpetrated when how and after what manner and of all other Articles and Circumſtances concerning the Premiſes and every of them or any of them in any manner whatſoever and the ſaid Treaſons and Miſpriſions of Treaſon according to the Laws and Cuſtoms of England for this time to hear and determine And alſo Juſtices and Commiſſioners of our ſaid Lord the King aſſigned and conſtituted by Letters Patent of our ſaid Lord the King under the Great Seal of Great Britain to the ſaid Sir Francis Buller John Heath and others their fellows Juſtices and Commiſsioners of our ſaid Lord the King and to any two or more of them made and directed of whom one of them the ſaid Sir Francis Buller and John Heath or of others in the ſaid laſt mentioned Letters Patent named our ſaid Lord the King willed to be one to deliver the Gaol of our ſaid Lord the King of the County aforeſaid of the Priſoners therein being and detained on the nineteenth Day of March in the thirty-eighth Year aforeſaid or who ſhould be therein detained before this preſent tenth Day of April in the ſame Year for or on account of any High Treaſons or Miſpriſions of High Treaſon other than ſuch as relate to the Coin of our ſaid Lord the King by whomſoever and in what manner ſoever done committed or perpetrated and when That ſame Seſsion of Oyer and Terminer and Gaol Delivery is adjourned by the ſame Juſtices and Commiſſioners of our ſaid Lord the King above named and others their fellows aforeſaid to be holden at Maidſtone aforeſaid in and for the County aforeſaid on Wedneſday the eleventh Day of this preſent Month of April in the thirty-eighth Year aforeſaid Upon which

ſaid Wedneſday the eleventh day of this preſent Month of April in the thirty-eighth year aforeſaid the ſame Seſsion of Oyer and Terminer and Gaol Delivery is holden by the adjournment aforeſaid at Maidſtone aforeſaid in and for the County aforeſaid before the ſaid Juſtices and Commiſsioners of our ſaid Lord the King above named and others their fellows aforeſaid and thereupon at the ſame Seſsion of Oyer and Terminer and Gaol Delivery holden by the adjournment aforeſaid at Maidſtone aforeſaid in and for the County aforeſaid on the ſaid Wedneſday the eleventh day of April in the thirty-eighth year aforeſaid before the ſaid Juſtices and Commiſsioners of our ſaid Lord the King above named and others their fellows aforeſaid By the Oath of Sir Edward Knatchbull Baronet Sir John Gregory Shaw Baronet Sir John Dixon Dyke Baronet Sir William Geary Baronet Charles Townſend Eſquire Henry Oxendon Eſquire William Hammond Eſquire George Polhill Eſquire Nicholas Roundell Toke Eſquire Lewis Cage the younger Eſquire Edward Auſtin Eſquire George Grote Eſquire George Children Eſquire Francis Motley Auſtin Eſquire Edward Huſſey Eſquire John Larken Eſquire Thomas Brett Eſquire Edward Peach Eſquire Henry Woodgate Eſquire William Francis Woodgate Eſquire James Chapman Eſquire George Smith Eſquire and George Talbot Hatley Foote Eſquire Good and Lawful Men of the County aforeſaid now here ſworn and charged to enquire for our ſaid Lord the King for the body of the ſaid County touching and concerning the Premiſes in the aforeſaid ſeveral Letters Patent mentioned It is preſented in manner and form as followeth that is to ſay

{INDICTMENT.} [Kent to wit.] The Jurors for our Lord the King upon their oath preſent that long before and at the ſeveral times hereinafter mentioned the perſons exerciſing the powers of government in France and the men of France under the government of the ſaid perſons were open and public enemies of our ſaid Lord the King and proſecuted and carried on open and public war againſt our ſaid Lord the King to wit at Margate in the County of Kent and that James O'Coigley late of Margate in the

county

county of Kent labourer otherwiſe called James Quigley late of the ſame place labourer otherwiſe called James John Fivey late of the ſame place labourer Arthur O'Conner late of the ſame place Eſq John Binns late of the ſame place labourer John Allen late of the ſame place labourer and Jeremiah Leary late of the ſame place labourer being ſubjects of our ſaid Lord the King and well knowing the premiſes but not having the fear of God in their hearts nor weighing the duty of their allegiance and being moved and ſeduced by the inſtigation of the devil as falſe traitors againſt our ſaid Lord the King and wholly withdrawing the love obedience fidelity and allegiance which every true and faithful ſubject of our ſaid Lord the King ſhould and of right ought to bear towards our ſaid Lord the King on the twenty-ſeventh day of February in the thirty-eighth year of the reign of our ſaid Sovereign Lord George the Third by the grace of God King of Great-Britain France and Ireland Defender of the Faith &c. and on divers other days and times as well before as after with force and arms at Margate in the county of Kent malicioufly and traiterouſly did amongſt themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown conſpire compaſs imagine and intend to bring and put our ſaid Lord the King to death

And to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſing and imagination aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid with force and arms on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid and on divers other days and times as well before as after at Margate in the county of Kent malicioufly and traiterouſly did aſſemble meet conſpire conſult and agree amongſt themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown to ſtir up raiſe and make rebellion and war againſt our ſaid Lord the King within this kingdom and to incite encourage move and perſuade the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an

hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſing and imagination aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid with force and arms on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid at Margate in the county of Kent maliciouſly and traiterouſly did procure and obtain and in their cuſtody and poſſeſſion conceal and keep a certain paper writing theretofore compoſed and prepared to ſignify and repreſent and cauſe to be ſignified and repreſented to the aforeſaid enemies of our ſaid Lord the King that divers of the ſubjects of our ſaid Lord the King were ready to aſſiſt the ſaid enemies of our ſaid Lord the King in caſe the ſaid enemies of our ſaid Lord the King ſhould make or cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and containing incitements encouragements and perſuaſions to incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made ſuch invaſion as aforeſaid to proſecute and wage war againſt our ſaid Lord the King within this kingdom and alſo containing information and intelligence of and concerning the ſuppoſed diſpoſitions of divers of the ſubjects of our ſaid Lord the King towards our ſaid Lord the King and his government and of and concerning the revenue of our ſaid Lord the King and the means uſed to raiſe and increaſe the ſame and the ſuppoſed failure of ſuch means with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might unlawfully and traiterouſly carry and convey and cauſe to be carried and conveyed the ſaid paper writing to parts beyond the ſeas to be delivered to certain perſons of the ſaid enemies of our ſaid Lord the King ſuch perſons being

called

called in the ſaid paper writing the Executive Directory of France and might thereby incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſing and imagination aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did treat and bargain and cauſe and procure a treaty and bargain to be had and made with one Thomas Norris and one John Foreman concerning and for the hire of a veſſel and did then and there by ſuch treaty and bargain and by promiſe of money endeavour to obtain and hire a veſſel to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be conveyed and carried in ſuch veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid paper writing the Executive Directory of France

And further to fulfil perfect and bring to effect their moſt

evil and wicked treaſon and treaſonable compaſſing and imagin a tion aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent malicioufly and traiterouſly did make a propoſal to and treat with and cauſe and procure a propoſal and treaty to be made and had to and with one Robert Campbell concerning and for the hire of a certain other veſſel and did then and there by ſuch propoſal and treaty endeavour to obtain and hire ſuch veſſel as laſt aforeſaid to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be carried and conveyed in the ſaid laſt mentioned veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid paper writing the Executive Directory of France

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſing and imagination aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent malicioufly

and

and traiterouſly did make a propoſal and cauſe and procure a propoſal to be made to one Jeremiah Mowle concerning and for the hire of a certain other veſſel and did then and there by ſuch propoſal endeavour to obtain and hire ſuch veſſel as laſt aforeſaid to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be carried and conveyed in the ſaid laſt mentioned veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid paper writing the Executive Directory of France

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſing and imagination aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did meet and aſſemble themſelves together having the ſaid paper writing ſecretly and traiterouſly in their cuſtody and poſſeſſion in order to conſult upon deviſe contrive diſcover and ſettle the means of going and paſſing and in order to go and paſs from and out of this kingdom unto and into parts beyond the ſeas with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah

Leary

Leary might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid paper writing the Executive Directory of France

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſing and imagination aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Conner John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did repair and go to a certain houſe ſituate at Margate aforeſaid in the ſaid county of Kent called the King's-Head in order to diſcover procure and provide the means of going and paſſing and in order to go and paſs from and out of this kingdom unto and into parts beyond the ſeas with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom in contempt of our ſaid Lord the King and his laws to the evil example of all others in the like caſe offending contrary to the duty of the allegiance of them the ſaid James O'Coigly otherwiſe called James Quig-

ley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary againſt the form of the Statute in ſuch caſe made and provided and againſt the peace of our ſaid Lord the King his crown and dignity

And the Jurors aforeſaid upon their oath aforeſaid do further preſent that the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary being ſubjects of our ſaid Lord the King as aforeſaid as falſe traitors againſt our ſaid Lord the King during the ſaid war to wit on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid and on divers other days and times as well before as after with force and arms at Margate in the county of Kent unlawfully and traiterouſly were adhering to and aiding and comforting the aforeſaid enemies of our ſaid Lord the King and in purſuance performance and execution of their treaſon and treaſonable adhering aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid with force and arms on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid and on divers other days and times as well before as after at Margate in the county of Kent malicioufly and traiterouſly did aſſemble meet conſpire conſult and agree amongſt themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown to ſtir up raiſe and make rebellion and war againſt our ſaid Lord the King within this kingdom and to incite encourage move and perſuade the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom

And in further purſuance performance and execution of their treaſon and treaſonable adhering aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid with force

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and arms on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid at Margate in the county of Kent malicioufly and traiterouſly did procure and obtain and in their cuſtody and poſſeſſion conceal and keep a certain paper writing theretofore compoſed and prepared to ſignify and repreſent and cauſe to be ſignified and repreſented to the aforeſaid enemies of our ſaid Lord the King that divers of the ſubjects of our ſaid Lord the King were ready to aſſiſt the ſaid enemies of our ſaid Lord the King in caſe the ſaid enemies of our ſaid Lord the King ſhould make or cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and containing incitements encouragements and perſuaſions to incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made ſuch invaſion as aforeſaid to proſecute and wage war againſt our ſaid Lord the King within this kingdom and alſo containing information and intelligence of and concerning the ſuppoſed diſpoſitions of divers of the ſubjects of our ſaid Lord the King towards our ſaid Lord the King and his Government and of and concerning the revenue of our ſaid Lord the King and the means uſed to raiſe and increaſe the ſame and the ſuppoſed failure of ſuch means with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might unlawfully and traiterouſly carry and convey and cauſe to be carried and conveyed the ſaid laſt mentioned paper writing to parts beyond the ſeas to be delivered to certain perſons of the ſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France and might thereby incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom

And in further purſuance performance and execution of their treaſon and treaſonable adhering aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called

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James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did treat and bargain and cauſe and procure a treaty and bargain to be had and made with one Thomas Norris and one John Foreman concerning and for the hire of a veſſel and did then and there by ſuch treaty and bargain and by promiſe of money endeavour to obtain and hire a veſſel to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be conveyed and carried in ſuch veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France

And in further purſuance performance and execution of their treaſon and treaſonable adhering aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did make a propoſal to and treat with and cauſe and procure a propoſal and treaty to be made and had to and with one Robert Campbell concerning and for the hire of a certain other veſſel and did then and there

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by ſuch propoſal and treaty endeavour to obtain and hire ſuch veſſel as laſt aforeſaid to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be carried and conveyed in the ſaid laſt mentioned veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France

And in further purſuance performance and execution of their treaſon and treaſonable adhering aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did make a propoſal and cauſe and procure a propoſal to be made to one Jeremiah Mowle concerning and for the hire of a certain other veſſel and did then and there by ſuch propoſal endeavour to obtain and hire ſuch veſſel as laſt aforeſaid to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be carried and conveyed in the ſaid laſt mentioned veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond

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the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the King ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France

And in further purſuance performance and execution of their treaſon and treaſonable adhering aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate aforeſaid in the ſaid county of Kent maliciouſly and traiterouſly did meet and aſſemble themſelves together having the ſaid laſt mentioned paper writing ſecretly and traiterouſly in their cuſtody and poſſeſſion in order to conſult upon deviſe contrive diſcover and ſettle the means of going and paſſing and in order to go and paſs from and out of this kingdom unto and into parts beyond the ſeas with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid enemies of our ſaid Lord the

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King ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France

And in further purſuance performance and execution of their treaſon and treaſonable adhering aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent malicioufly and traiterouſly did repair and go to a certain houſe ſituate at Margate aforeſaid in the ſaid county of Kent called the King's Head in order to diſcover procure and provide the means of going and paſſing and in order to go and paſs from and out of this kingdom unto and into parts beyond the ſeas with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might in parts beyond the ſeas give advice information comfort aid and aſſiſtance to the ſaid enemies of our ſaid Lord the King and incite encourage perſuade and procure the ſaid enemies of our ſaid Lord the King to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom in contempt of our ſaid Lord the King and his laws to the evil example of all others in the like caſe offending contrary to the duty of the allegiance of them the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary againſt the form of the ſtatute in ſuch caſe made and provided and againſt the peace of our ſaid Lord the King his crown and dignity

And the Jurors aforeſaid upon their oath aforeſaid do further preſent that the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary being ſubjects of our ſaid Lord the King as aforeſaid as falſe traitors againſt our ſaid Lord the King after the eighteenth day of December which was in the year of our Lord one thouſand ſeven hundred and

ninety-five to wit on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid and on divers other days and times as well before as after the ſaid laſt mentioned day with force and arms within this realm to wit at Margate in the county of Kent maliciouſly and traiterouſly did compaſs imagine invent deviſe and intend to move and ſtir certain foreigners and ſtrangers that is to ſay the aforeſaid perſons exerciſing the powers of Government in France and the men of France under the government of the ſaid perſons with force to invade this realm and the ſame laſt mentioned compaſſings imaginations inventions devices and intentions did then and there expreſs utter and declare by divers overt acts and deeds hereinafter mentioned that is to ſay

In order to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings imaginations inventions devices and intentions laſt mentioned they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid with force and arms on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid and on divers other days and times as well before as after at Margate in the county of Kent maliciouſly and traiterouſly did aſſemble meet conſpire conſult and agree amongſt themſelves and together with divers other falſe traitors whoſe names are to the ſaid Jurors unknown to incite encourage move and perſuade the ſaid foreigners and ſtrangers to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings imaginations inventions devices and intentions laſt aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid with force and arms on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid at Margate in the county of Kent maliciouſly and traiterouſly did procure and

obtain and in their cuſtody and poſſeſſion conceal and keep a certain paper writing theretofore compoſed and prepared to ſignify and repreſent and cauſe to be ſignified and repreſented to the aforeſaid foreigners and ſtrangers that divers of the ſubjects of our ſaid Lord the King were ready to aſſiſt the ſaid foreigners and ſtrangers in caſe the ſaid foreigners and ſtrangers ſhould make or cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and containing incitements encouragements and perſuaſions to incite encourage perſuade and procure the ſaid foreigners and ſtrangers to make and cauſe to be made ſuch invaſion as aforeſaid to proſecute and wage war againſt our ſaid Lord the King within this kingdom and alſo containing information and intelligence of and concerning the ſuppoſed diſpoſitions of divers of the ſubjects of our ſaid Lord the King towards our ſaid Lord the King and his Government and of and concerning the revenue of our ſaid Lord the King and the means uſed to raiſe and increaſe the ſame and the ſuppoſed failure of ſuch means with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might unlawfully and traiterouſly carry and convey and cauſe to be carried and conveyed the ſaid laſt mentioned paper writing to parts beyond the ſeas to be delivered to certain perſons of the ſaid foreigners and ſtrangers ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France and might thereby incite encourage perſuade and procure the ſaid foreigners and ſtrangers to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings imaginations inventions devices and intentions laſt aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on

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the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did treat and bargain and cauſe and procure a treaty and bargain to be had and made with one Thomas Norris and one John Foreman concerning and for the hire of a veſſel and did then and there by ſuch treaty and bargain and by promiſe of money endeavour to obtain and hire a veſſel to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be conveyed and carried in ſuch veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information aid and aſſiſtance to the ſaid foreigners and ſtrangers and incite encourage perſuade and procure the ſaid foreigners and ſtrangers to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid foreigners and ſtrangers ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France.

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings imaginations inventions devices and intentions laſt aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did make a propoſal to and treat with and cauſe and procure a propoſal and treaty to be made and had to and with one Robert Campbell concerning and for the hire of a certain other veſſel and did then and there by ſuch propoſal and treaty endeavour to obtain and hire

ſuch veſſel as laſt aforeſaid to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be carried and conveyed in the ſaid laſt mentioned veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information and aſſiſtance to the ſaid foreigners and ſtrangers and incite encourage perſuade and procure the ſaid foreigners and ſtrangers to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid foreigners and ſtrangers ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings imaginations inventions devices and intentions laſt aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did make a propoſal and cauſe and procure a propoſal to be made to one Jeremiah Mowle concerning and for the hire of a certain other veſſel and did then and there by ſuch propoſal endeavour to obtain and hire ſuch veſſel as laſt aforeſaid to ſail and go from this kingdom unto and into parts beyond the ſeas in order that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might be carried and conveyed in the ſaid laſt mentioned veſſel from this kingdom unto and into parts beyond the ſeas and might in parts beyond the ſeas give advice information and aſſiſtance to the ſaid foreigners and

ſtrangers and incite encourage perſuade and procure the ſaid foreigners and ſtrangers to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid foreigners and ſtrangers ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings imaginations inventions devices and intentions laſt aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent maliciouſly and traiterouſly did meet and aſſemble themſelves together having the ſaid laſt mentioned paper writing ſecretly and traiterouſly in their cuſtody and poſſeſſion in order to conſult upon deviſe contrive diſcover and ſettle the means of going and paſſing and in order to go and paſs from and out of this kingdom unto and into parts beyond the ſeas with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might in parts beyond the ſeas give advice information and aſſiſtance to the ſaid foreigners and ſtrangers and incite encourage perſuade and procure the ſaid foreigners and ſtrangers to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom and might for the purpoſe of ſuch incitement encouragement perſuaſion and procurement as laſt aforeſaid deliver and cauſe to be delivered the ſaid laſt mentioned paper writing to certain perſons of the aforeſaid foreigners and ſtrangers ſuch perſons being called in the ſaid laſt mentioned paper writing the Executive Directory of France

And further to fulfil perfect and bring to effect their moſt evil and wicked treaſon and treaſonable compaſſings imaginations inventions devices and intentions laſt aforeſaid they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary as ſuch falſe traitors as aforeſaid on the twenty-ſeventh day of February in the thirty-eighth year of the reign aforeſaid with force and arms at Margate in the county of Kent malicioufly and traiterouſly did repair and go to a certain houſe ſituate at Margate aforeſaid in the ſaid county of Kent called the King's Head in order to diſcover procure and provide the means of going and paſsing and in order to go and paſs from and out of this kingdom unto and into parts beyond the ſeas with intent that they the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary might in parts beyond the ſeas give advice information and aſsiſtance to the ſaid foreigners and ſtrangers and incite encourage perſuade and procure the ſaid foreigners and ſtrangers to make and cauſe to be made an hoſtile invaſion of this kingdom with ſhips and armed men to proſecute and wage war againſt our ſaid Lord the King within this kingdom in contempt of our ſaid Lord the King and his laws to the evil example of all others in the like caſe offending contrary to the duty of the allegiance of them the ſaid James O'Coigly otherwiſe called James Quigley otherwiſe called James John Fivey Arthur O'Connor John Binns John Allen and Jeremiah Leary againſt the form of the ſtatute in ſuch caſe lately made and provided and againſt the peace of our ſaid Lord the King his crown and dignity.

On

On Monday, May the 21ſt, 1798, the Court met, purſuant to adjournment, at ſeven o'clock in the morning.

PRESENT,

The Right Honourable Lord ROMNEY;
The Honourable Mr. Juſtice BULLER;
The Honourable Mr. Juſtice HEATH;
The Honourable Mr. Juſtice LAWRENCE; and
Mr. Serjeant SHEPHERD.

Counſel for the Crown.	*Counſel for the Priſoners, aſſigned by the Court.*
Mr. ATTORNEY GENERAL,	Mr. PLUMER,
Mr. SOLICITOR GENERAL,	Mr. DALLAS,
Mr. GARROW,	Mr. GURNEY,
Mr. ADAM,	Mr. FERGUSSON,
Mr. FIELDING,	Mr. WILLIAM SCOTT.
Mr. ABBOTT.	*Aſſiſtant Counſel.*
	Mr. GEORGE SMITH.

Solicitor.	*Solicitors.*
JOSEPH WHITE, Eſq. Solicitor for the affairs of his Majeſty's Treaſury.	Mr. SIMMONS, of Rocheſter, Mr. JOHN FOULKES, and Mr. BONNEY, of London.

James O'Coigly, otherwiſe called *James Quigley*, otherwiſe called *James John Fivey*; *Arthur O'Connor*, Eſq. *John Binns*; *John Allen*; and *Jeremiah Leary*, were ſet to the bar.

Mr. Plumer. I hope your Lordſhips will do me the juſtice to believe that it is with great uneaſineſs I feel myſelf under the neceſſity of interrupting the proceedings of the preſent day: but I am ſure your Lordſhips will feel that it was incumbent upon me not to delay a ſingle moment in ſtating to you the contents of the affidavit that I have in my hand; which contains a charge of the foulеſt nature; one of the

groſſeſt contempts of the Court, and one of the moſt daring attempts to violate public juſtice, that ever was heard of.

I feel it incumbent upon me to prevent for a ſingle moment any impreſſion being made to the prejudice of the Gentlemen who are concerned for the Proſecution, by ſtating that I do not in the leaſt mean, directly or indirectly, to impute in the ſmalleſt degree to any one of them, or to any perſon concerned in the Proſecution, the foul charge that I am now to ſtate to your Lordſhips.---When it was firſt ſtated to me, it appeared to be of ſo extraordinary a nature, that I certainly did not give entire credit to the wicked attempt that had been made to tamper with the Jury, till I had uſed every poſſible means of aſcertaining the fact.

The charge is founded upon the affidavit of moſt reſpectable perſons, of whoſe veracity and honor there will not be the leaſt queſtion.——My Lord, an attempt has been made to prejudice the trial of theſe Priſoners, by converſations held with perſons known to be Jurymen, and by the moſt improper topics being addreſſed to the feelings and to the underſtandings of thoſe men, to induce them to come into Court with a predetermined purpoſe of conviction.——My Lords, I will ſtate preciſely what has been the nature of this converſation; and your Lordſhips will be aſtoniſhed to hear that the Gentleman againſt whom I make this charge bears the character of a clergyman: but I ſhall prove it under his own hand. Fortunately for the Priſoners, we are now in poſſeſſion of the account he gave of the attempts he had been making to practiſe with thoſe perſons who he knew were ſummoned to conſtitute a part of the Jury upon this ſolemn occaſion. He writes thus---" I dined with three of the " Jurymen of the Blackburn Hundred, who have been ſum- " moned to Maidſtone, to the trial of O'Connor and Com- " pany: and it is not a little ſingular that not one Yeoman " of this Diſtrict ſhould have been ſummoned to an Aſſize for " this County, nor to any Quarter Seſſions (excepting the " Midſummer) for more than fifty years.---Theſe three " Yeomen are wealthy Yeomen, and partizans of the " High " Court Party " Now this is as it ought to be; and as they

" are

" are good Farmers, and much in my intereſt---to be ſure, I " exerted all my eloquence to convince them, how abſolutely " neceſſary it is, at the preſent moment, for the ſecurity of the " realm, that the felons ſhould ſwing.——I repreſented to " them that the acquittal of Hardy and Company laid the " foundation of the preſent conſpiracy, the Manchester, Lon- " don Correſponding, &c. &c. I urged them by all poſſible " means in my power to hang them through mercy: a me- " mento to others. that had the others have ſuffered, the " deep laid conſpiracy which is coming to light would have " been neceſſarily cruſhed in its infancy.---Theſe with many " other arguments I preſſed with a view that they ſhould go " into Court avowedly determined in their Verdict---No " matter what the evidence.---An innocent man committed to " Gaol never offers a bribe to a turnkey to let him eſcape. " O'Connor did this to my knowledge; and although the " Judge"——I beg pardon for ſtating here the foul imputations upon your Lordſhip——" and although the Judge is ſuf- " ficiently ſtern, and ſeldom acquits, when hanging is ne- " ceſſary, the only fear I have is, that when the Jury is im- " pannelled, the " Blues" may gain the aſcendancy---in ſhort, " I preſſed the matter ſo much upon their ſenſes, that if any " one of the three is choſen, I think ſomething may be done--- " Theſe three men have gained their good fortunes by " farming; and I think they are now thoroughly ſenſible that " they would loſe every ſhilling by acquitting theſe felons."

The remainder of the Letter I do not read, becauſe it does not concern this ſubject——This Letter is in the hand-writing of the Reverend Arthur Young; it was addreſſed to a Gentle- man at Bury, who has depoſed to the receipt of it, and to its being in the hand-writing of Mr. Arthur Young——We have given notice to Mr. Arthur Young of the application intended to be made to the Court: he acknowledged that he wrote the Letter; and being called upon to ſtate who the three perſons were to whom he alludes, in order that we might be enabled to make it the ſubject of diſtinct challenge, he refuſed to name them. Under theſe circumſtances, I am ſure it will be the wiſh of your Lordſhips, and I am confident it is of the Proſecutors,

to

to prevent theſe gentlemen being brought to their trial under the heavy weight of prejudices which may have been created in the mind of any one of the perſons with whom this converſation has been held; what courſe your Lordſhip will purſue it is not for me to ſtate, it was my duty to put the Court in poſſeſſion of the circumſtance, and I am ſure I ſhall have the co-operation of every Gentleman preſent, in endeavouring to diſcover, if poſſible, who the perſons are with whom this converſation has been held, in order to prevent their conſtituting a part of the preſent Jury; with how many more the ſame ſort of converſation has been held I know not, but it is clear that this converſation has been held with three at leaſt.

I believe that I ought to accompany this with an application to your Lordſhips perſonally, againſt the individual who has unqueſtionably been guilty of a groſs and high contempt of the Court.

Mr. Juſtice Heath. He is not here.

Mr. Plumer. We have given him notice.

Mr. Juſtice Heath. But our commiſſion is determinable before we can proceed to puniſhment.

Mr. Juſtice Buller. Certainly it ought not to paſs unpuniſhed—will you have him called?

Mr. Plumer. Yes, if your Lordſhip pleaſes.

Mr. Juſtice Buller. Call him by his name.

[*The Rev. Arthur Young was called, but did not appear.*]

Mr. Plumer. When the Rev. Arthur Young was told of an application being to be made to the Court againſt him, he ſaid he ſhould conſult Mr. Forbes, an attorney, a relation of his, as to what would be beſt for him to do.

Mr. Juſtice Heath. It is a very great offence; what would you wiſh us to do upon it at preſent?

Mr. Plumer. I am ſure it is your Lordſhip's wiſh, generally, to protect the purity of juſtice, and that theſe proceedings ſhould go on in a way to attain that juſtice; there are ſummoned from the Blackburn Hundred a number of freeholders to ſerve as Jurors; I preſume there will be no objection to a queſtion being put from an officer under your Lordſhip's direction, or from your Lordſhip, to each of them as they are called, to know

know whether any one of them is a perſon with whom this converſation has been held.

Mr. Juſtice Buller. We may aſk this queſtion—have you been in company with Mr. Arthur Young—but we cannot aſk a Juryman any queſtion that tends to criminate himſelf.

Mr. Plumer. I am perfectly aware of that.

Mr. Juſtice Buller. What part theſe Jurymen took we know not, they may be pure and guiltleſs; this Clergyman ought to be puniſhed, and very heavily.

Mr. Juſtice Heath. As I underſtand the letter, he ſays he thought he made an impreſſion upon them; there is no imputation upon them, for a man may liſten to another and not pay any attention to what he ſays.

Mr. Dallas. I certainly do not think it neceſſary to add much to my friend Mr. Plumer's obſervations, becauſe it ſeems ſufficient for me that the Court is put in poſſeſſion of the fact; I have no doubt that every thing will be done to counteract a plot of ſo baſe and of ſo infamous a nature, and to guard the purity of the adminiſtration of juſtice; I riſe therefore, for the purpoſe merely of making one obſervation upon what fell from one of the learned Judges: it is truly ſaid, that upon the affidavit which has been ſtated to the Court, it does not appear that theſe Jurymen aſſented to the arguments that were urged to induce them to convict whatever the evidence might be; but the queſtion is whether your Lordſhips will put theſe priſoners upon their trials without that fact appearing one way or the other, after your Lordſhips have been put in poſſeſſion of evidence, from which it does appear that attempts of this ſort have been made. A great variety of caſes have occurred in which trials have been put off on account of the circulation of pamphlets, written with a view to an impending trial.—I am not aware that in any one of thoſe caſes evidence has been laid before the Court, that thoſe pamphlets did produce the effect intended; it was enough that they might produce the effect, and therefore I take for granted, that if this had been done with reſpect to all the Jury, whether it had appeared or had not appeared that it had produced any effect, the Court would upon that ground generally have put off the trial altogether; then

the

the queſtion is, whether when it does appear with reſpect to ſome of this Jury, your Lordſhip will not inſtitute that enquiry before they are ſworn, which is neceſſary for the purpoſe of juſtice; it does not ſeem to me eſſential to ſuch an application to prove that in point of effect the endeavour did ſucceed, it is enough that the endeavour has been made.

Mr. Attorney General. I am perfectly perſuaded that I do not take to myſelf a degree of credit for feelings that are not genuine, when I proteſt, in the name of the Country, that I hear with great affliction that any ſuch circumſtance has taken place, as that which has been mentioned this day in the Court, and I have no difficulty in ſtating, that if upon an enquiry into the truth of this matter, conducted upon principles of juſtice, with reſpect to all the parties concerned in it, I ſhould find reaſon finally to think, that the charge made by this affidavit is true; I have no difficulty in ſtating here that I think it my bounden duty to thoſe perſons who ſtand at the bar, that I think it my bounden duty to the Country, and that I ought to be diſmiſſed with diſgrace from my office inſtantly, if I heſitated one moment to exerciſe the utmoſt powers that my office confers upon me, to bring to juſtice any man who dares to hold this ſort of language to a perſon who is to execute the office of a Juror in this Country.

I perfectly agree that the law knows no more of the character of a Juror than this, that the Sheriff of the County is to bring into that box, to try indifferently between the Country and theſe priſoners, twelve men qualified according to law to try them, without a prejudice upon their minds, and if poſſible, without the leaſt information with reſpect to the matter which they are to try, till they hear it openly in this Court.—If, therefore, the object of this application be in the firſt place, the puniſhment of any man who has been guilty of any ſuch practice; I have no difficulty in ſtating here, that I pledge myſelf to uſe my utmoſt endeavours to bring to juſtice any man who can be juſtly ſo accuſed.—If the object be, on the other hand, to prevent theſe three unknown perſons from forming a part of this Jury, I ſay alſo, that although I think in forwarding an application for juſtice, I ought to take great

care

care that I do not injuſtice, therefore in ſtating what I now ſtate, I deſire it may be diſtinctly underſtood that I do not concur in any cenſure upon any of thoſe three perſons founded upon any thing that has as yet appeared; yet, my Lord, I know this, that we live in a Country whoſe Government and Conſtitution is not worth ſupporting, if it be poſſible that any trial of men for their lives, can be conducted with the concurrence of thoſe to whom is intruſted the adminiſtration of juſtice, under circumſtances that ſhall leave upon the mind of any honeſt man, a doubt whether the priſoners tried for their lives have been juſtly tried or not, and therefore, any means which can be adopted conſiſtently with the rules of juſtice, to know who theſe three perſons are, I ſhall certainly think it my duty, again proteſting againſt its being conſidered as any cenſure upon them, ſo far to concur with my learned friends in what they have been ſtating, as to relieve the priſoners from the neceſſity of challenging theſe perſons by challenging them myſelf, in order that they may not form a part of the Jury; further than this I know not how I can concur and co-operate; but to the extent to which I have expreſſed myſelf, I pledge myſelf to the Country that I will, to the beſt of my judgment, execute it.

Mr. Juſtice Buller. That is all that can be done.

Mr. Plumer. All that can be done is to adopt ſome means to aſcertain who the perſons are.

Mr. Juſtice Heath. How many perſons are there from that Hundred?

Mr. Attorney General. I find, upon enquiry, that the number of the freeholders ſummoned from Blackburn Hundred are twelve; it ſeems to me that it is the moſt proper way of ſtating myſelf with reſpect to the Jurors of that Hundred, becauſe the leaſt reflecting upon any of them, and at the ſame time what perhaps will be the moſt fair towards the priſoners to ſay, that I give up all theſe twelve.

" Kent to wit.—The King againſt James O'Coigly other-
" wiſe called James Quigley otherwiſe called James John
" Fivey, Arthur O'Connor, Eſq; John Binns, John Allen,
" and Jeremiah Leary, on a charge of high treaſon.

" Gamaliel Lloyd, of Bury St. Edmunds, in the county of
" Suffolk, Eſq. maketh oath and ſaith, that he this deponent
" did, on or about the 3d day of May inſtant, receive the letter
" hereunto annexed from Arthur Young, of Bradfield, in the
" county of Suffolk, Clerk, and that he hath frequently re-
" ceived letters, and correſponded with the ſaid Arthur Young,
" and that he verily believes that the ſaid letter is written by,
" and in the proper hand-writing of, the ſaid Arthur Young:
" And this Deponent further ſaith, that he ſaw and converſed
" with the ſaid Arthur Young on the 19th day of May inſtant;
" after this Deponent had been ſerved with a writ of ſubpœna re-
" quiring his attendance at Maidſtone, in the County of Kent,
" on the 21ſt day of May inſtant, with the ſaid annexed letter,
" upon which occaſion this Deponent informed the ſaid Arthur
" Young that he was ſo ſubpœnaed for the purpoſe aforeſaid,
" and urged the ſaid Arthur Young to come to Maidſtone afore-
" ſaid, and meet the charge and extenuate his fault in the beſt
" way he was able, concerning which he heſitated, but he
" ſeemed diſpoſed to come if there was a place in the coach
" for him. And this Deponent further ſaith, that the mother
" of the ſaid Arthur Young being preſent on the ſaid laſt men-
" tioned occaſion, alſo urged the ſaid Arthur Young to inform
" her of the names of the Jurors mentioned in the ſaid letter,
" to whom he had ſpoken, as ſtated in the ſaid letter, but he
" refuſed to comply with her ſaid requeſt, whereupon this
" Deponent adviſed the ſaid Arthur Young to conſult Mr.
" Forbes, an attorney, and a relation of his as to what would
" be beſt for him to do, and to act accordingly, to which he
" the ſaid Arthur Young ſeemed to this Deponent to aſſent.

" GAMALIEL LLOYD."

" Sworn in Court at Maidſtone, in the county of Kent, 21 May, 1798, before } F. BULLER.

„ Dear

" Dear Sir,

" I dined yeſterday with three of the Jurymen " of the Blackburn Hundred, who have been ſummoned to Maid- " ſtone to the trial of O'Connor and Co.; and it is not a little " ſingular, that not one Yeoman of this diſtrict ſhould have " been ſummoned to an Aſſize for this county, nor to any of " the Quarter Seſſions (excepting the Midſummer) for more " than 50 years. Theſe three men are wealthy Yeomen, and " partizans of the " High Court Party." Now this is as it " ought to be, and as they are good farmers and much in my " intereſt, to be ſure I exerted all my eloquence to convince " them how abſolutely neceſſary it is, at the preſent moment, " for the ſecurity of the realm, that the felons ſhould ſwing. " I repreſented to them, that the acquittal of Hardy and Co. " laid the foundation of the preſent conſpiracy, the Mancheſter, " London Correſponding, &c. &c. I urged them, by all poſ- " ſible means in my power, to hang them through mercy, a " memento to others; that had the others have ſuffered, the " deep laid conſpiracy which is coming to light would have " been neceſſarily cruſhed in its infancy. Theſe, with many " other arguments, I preſſed, with a view that they ſhould go " into court avowedly determined in their verdict, no matter " what the evidence. An innocent man committed to gaol " never offers a bribe to a turnkey to let him eſcape, O'Connor " did this to my knowledge. And although the Judge is ſuf- " ficiently ſtern, and ſeldom acquits when hanging is neceſſary, " the only fear I have is, that when the Jury is impannelled, " the 'Blues' may gain the aſcendancy. In ſhort, I preſſed " the matter ſo much upon their ſenſes, that if any one of the " three is choſen, I think ſomething may be done. Theſe " three men have gained their good fortunes by farming, and I " think they are *now* thoroughly ſenſible that they would loſe " every ſhilling by acquitting theſe felons.

" I have ſeen, Sir, that deteſted ſhore, that atrocious land " of deſpotiſm, from Shakſpeare's cliffs, Calais ſteeples, and " truly I ſhuddered, not at the precipice, but by contemplating " the vicinity to me of a miſcreant crew of hellions vomit- " ing their impotent vengeance, and already ſatiating their

" bloody

" bloody appetites upon my country. Ah! my good Sir, we " are ſafe, it is next to a moral impoſſibility that in Suſſex or " Kent they could land in force; the batteries, forts, &c. are " ſo numerous, that hardly a gun-boat could eſcape being blown " to atoms. But Ireland, alas! alas! it is loſt, Sir, I fear it is " gone.

" Here Government are *now* ſpending hundreds of thouſands " in fortifying what can never be attacked; they are fortifying " the Caſtle with out-works, ravelins, counterſcarps, and " *immenſe* ditches, and they are abſolutely burrowing under the " rocks for barracks; it is, indeed, a moſt prodigious under- " taking, but abſolutely *uſeleſs*. It is a pity, indeed it is, when " money is ſo much wanted, to ſee it ſo wantonly waſted, " and all done in *throwing down the cliff upon the beach*. Re- " member me to Mrs. L. and your family, aſſure her we all " expect a republican viſitation.

" This county is ſplit into party, but I never enter the " habitation of a yeoman but I ſee the ſword of its owner " ſuſpended; glorious ſight! But the militia, O Lord! at " Horſham, Shorehem, Aſhford, Battle, Lewes, Brighton, " Ringmer, &c. &c. I very ſeldom meet with a ſober man, " 'tis nothing but a dreary ſight of drunkenneſs. Fine ſoldiers " *in action! their pay, their pay* ſo extravagant.

" I have *now* as fine a ſight of the Chalk-hill oppoſite as " ever was ſeen. The ſun is ſetting upon that vile land, and " preſents an object not a little diſagreeable.

" Your's, truly,

" *Dover, May-Day.* " A. YOUNG."

Addreſſed, " Gamaliel Lloyd, Eſq. Bury St. Edmunds, Suffolk."

Mr. Garrow. I will take this opportunity to ſtate that the witneſſes may now retire.

Mr. Plumer. We have no objection to it, but we have no wiſh that they ſhould retire on either ſide.

Mr. Attorney General. I wiſh it to be underſtood that I deſire it.

Mr. Plumer. There are ſome gentlemen in Court who will ſpeak only to character.

Mr.

Mr. Attorney General. It is impoſſible for me to pledge myſelf that I may not have ſome very material queſtions to aſk of every witneſs that may be brought. Your Lordſhip will give me leave to aſk the counſel for the priſoners whether they mean to ſever their challenges?

Mr. Plumer. I believe I am authorized by all the priſoners to ſay, that it is not their intention to ſeparate their challenges.

Mr. Attorney General. In conſequence of what the counſel for the priſoners have now ſaid, I am to deſire that the trial of all the priſoners may come on together.

The Jurors returned by the Sheriff were then called over.
Edward Burrow, Eſq. challenged by the priſoners.
Thomas Newnham, Eſq. challenged by the crown.
William Wells, Eſq. challenged by the priſoners.
John Harriſon, Eſq. not a freeholder.
Thomas Raikes, Eſq.

Mr. Plumer. I challenge Mr. Raikes for cauſe.

Mr. John Foulkes. (Sworn.)

Mr. Plumer. Did you ſee Mr. Raikes at the time of the arraignment of the priſoners?

A. Yes.

Q. Did you hear him ſay any thing reſpecting the priſoners at that time?

A. He ſtood pretty nearly in the place where I now ſtand (near the bar), and he enquired the names of the priſoners ſeparately; the laſt of the priſoners happened to be Mr. Binns, whom I pointed out, he looked them all ſteadfaſtly in the face quite cloſe to them, clenched his fiſt, and exclaimed, "damned raſcals."

Mr. Attorney General. That is evidence that may be given by any body, that is no cauſe of challenge.

Mr. Plumer. There can be no doubt, if this fact is believed, it proves that Mr. Raikes does not come here with that indifferent mind which every perſon who ſits upon the life of another ought to have; epithets of that nature, when applied to perſons who were in a ſituation to be tried for their lives, are

ſtrongly expreſſive of ſuch a diſpoſition, and a perſon who could uſe them muſt entertain ſome hatred.

Mr. Attorney General. We are getting here into prodigious irregularity, and I feel it my duty to protect the Gentlemen of the Jury againſt this ſort of attack. If my friend means to ſtate any caſe of fact which he has to propoſe to the Court, let him ſtate that caſe, and let us have it tried by triers.

Mr. Dallas. It is not only expreſſive of malice, but it furniſhes a preſumption that the Juror has formed an opinion with reſpect to the particular caſe.

Mr. Attorney General. I muſt interrupt this mode of proceeding.

Mr. Juſtice Buller. Will you have it tried?

Mr. Dallas. Yes, we will have it tried.

Mr. Juſtice Buller. The Cryer puts me in mind of what I did upon a former occaſion, but perhaps this may not come within that rule; I appointed two officers of the Court then to try it. Are there two gentlemen here that are not upon the Jury? Mr. Under-Sheriff, point out two gentlemen who are not upon the Jury.

The Under-Sheriff pointed out

Thomas Watkinſon Paylor, Eſq. and
Iſaac Rutton, Eſq.

They were ſworn "to try whether Thomas Raikes, the Juror, ſtands indifferent between our Sovereign Lord the King and the Priſoners at the bar, and thereof a true verdict give according to the evidence."

Mr. Juſtice Buller. Swear the witneſs again.

Mr. John Foulkes. (Sworn)

Mr. Plumer. I wiſh to aſk Mr. Foulkes whether he ſaw Mr. Raikes at the time the priſoners were arraigned?

A. I did.

Q. Did you hear Mr. Raikes, at that time, uſe any expreſſion reſpecting any of the priſoners?

A. He enquired the names of the ſeveral priſoners; the laſt he enquired about was Mr. Binns, he aſked that queſtion of me,

me, he looked them ſteadfaſtly and angrily in the face, he ſhook his fiſt, and exclaimed, " damned raſcal."

Mr. John Foulkes,

Croſs Examined by Mr Attorney-General.

Q. Did you know Mr. Raikes before?

A. Perſonally only.

Q. Mr. Raikes is not an acquaintance of yours at all?

A. Not at all.

Q. And you mean to ſay, that Mr. Raikes came to you, a ſtranger to him, and aſked you that queſtion, and held the converſation that you have now ſtated?

A. Unqueſtionably, and in the preſence of others as well as myſelf.

Q. Tell us who the others were?

A. They were all ſtrangers to me.

Q. Did you take any notice of it to any body elſe at the time?

A. I did, the moment I came out of Court.

Q. Whereabouts did Mr. Raikes ſtand?

A. Juſt where I ſtand now (juſt before the bar), or pretty near it, the preſent arrangement of the court may make ſome difference.

Q. And, ſtanding there, he aſked you who were the priſoners?

A. He aſked me relative to Mr. Binns, having aſked about the other priſoners of perſons that were ſtanding by at the time, I pointed out Mr. Binns to him.

Q. He had aſked of others with reſpect to the other priſoners?

A. He had.

Q. Do you recollect who the perſons were that he aſked the queſtions of?

A. I cannot tell the names of thoſe perſons.

Q. You know Mr. Raikes is a perſon in a very reſpectable ſituation of life?

A. Unqueſtionably.

Q. And you can name no perſon but yourſelf that could give any evidence upon this, although you heard the ſame queſtion put to others?

A. I did not, at the time, mention it to any body that was ſtanding by me, but the moment I came out of Court I mentioned it, to the beſt of my recollection, to Mr. Simmons.

Q. What did Mr. Raikes ſay to the other perſons to whom he addreſſed queſtions?

A. That I did not hear.

Q. You are a perfect ſtranger to Mr. Raikes, except knowing him, as every body elſe does, by character.

A. His perſon is perfectly familiar to me; I had occaſion to ſee Mr. Raikes not long ago.

Mr. Plumer. Have you the leaſt doubt about Mr. Raikes's perſon that this was the gentleman whom you ſaw?

A. I have no doubt in the leaſt; I mentioned him by name to Mr. Simmons and Mr. Bonney, to the beſt of my recollection.

Q. Were the words "damned raſcals" expreſſed in a converſation particularly addreſſed to you, or an obſervation expreſſed to himſelf when the priſoners were pointed out to him?

A. It was not addreſſed to me but to the priſoners, looking them ſteadfaſtly and angrily, and bitterly in the face, and clenching his fiſt at the time.

Q. Then the converſation that was addreſſed to you, I underſtand to be only enquiring who the priſoners were, is it ſo?

A. Yes.

Q. Enquiring which were the priſoners, and after having been told which they were, clenching his fiſt, and making the obſervation "damned raſcals?"

A. He aſked me only with regard to Mr. Binns.

Mr. Attorney General. I will prove that he made application to be excuſed.

Mr. Plumer. That may apply either way; if Mr. Raikes was conſcious he could not try them indifferently, that might be a ſufficient reaſon for his wiſhing to be excuſed.

Mr. Attorney General. That is matter of obſervation.

Mr.

Mr. Solicitor General. (Sworn)

Mr. Solicitor General. Mr. Raikes, when I have ſeen him at different times, has repeatedly expreſſed to me his extreme unwillingneſs to be upon the Jury, and this morning, as I was coming into Court, ſtated to me the extreme inconvenience that it would be to him to be upon the Jury, and that he had made an application to your Lordſhips with a view not to ſerve upon the Trial.

Mr. Juſtice Buller. Gentlemen, you will ſay, upon the evidence you have heard, whether you are of opinion that Mr. Raikes is a perſon who will try theſe priſoners indifferently, upon the evidence that may be given, or not.

After conſulting together, one of the gentlemen ſaid, as the oath is taken againſt Mr. Raikes we think he had better be omitted.

John Cator, Eſq. challenged by the priſoners.
Henry Jackſon, Eſq. challenged by the priſoners.
John Willis, Gent. challenged by the crown.
Thomas Poole, Gent. challenged by the crown.
Luke Pocock, Eſq. not properly deſcribed in the pannel.
John Neſbitt, Eſq. challenged by the crown.
James Kirkpatrick, Eſq. challenged by the priſoners.
Charles Haſkins, Eſq. ſworn.
Richard Stone, Eſq. challenged by the priſoners.
Robert Jenner, Eſq. challenged by the priſoners.
John Daviſon, Eſq. not a freeholder to the value of 10 pounds a year.
Charles Stuart Minſhaw, Eſq. challenged by the priſoners.
Stephen Brooker, farmer, challenged by the priſoners.
Sir Richard Glode, Knight, not properly deſcribed in the pannel.
James Biggs, farmer, challenged by the priſoners.
Henry Pawley, farmer, challenged by the priſoners.
David Orme, Eſq. challenged by the priſoners.
William Cope, Eſq. excuſed on account of age.
Richard Lewin, Eſq. challenged by the priſoners.
William Watkins, Gent. challenged by the priſoners.
John Leader, Eſq. challenged by the priſoners.

Benjamin Harence, Eſq. excuſed on account of illneſs.
Richard Wright, Eſq. not properly deſcribed in the panne.
James Bedell, Farmer, challenged by the crown.
Richard Chapman, Eſq. challenged by the priſoners.
Joſeph Bearnes, Eſq. challenged by the priſoners.
William Child, Maltſter, challenged by the priſoners.
Thomas Wilmot, Gent. challenged by the priſoners.
George Brooker, Farmer, challenged by the priſoners.
William Small, Farmer, ſworn.
William Wilmot. Gent. challenged by the crown.
William Wedd, Farmer, challenged by the priſoners.
James Hodſoll, Gent. challenged by the priſoners.
James Martyr, Gent.

Mr. Plumer. We challenge Mr. Martyr for cauſe.

Mr. Juſtice Buller. Swear the two Jurors who are ſworn to try this queſtion.

Mr. Haſkins and Mr. Small were ſworn as Triers,

Benjamin Rawſon. (Sworn.)

Examined by Mr. Plumer.

Q. Do you know Mr. James Martyr?

A. Yes, I do.

Q. Did you hear him ſay any thing reſpecting the priſoners, and what?

A. I heard him ſay that he was afraid the priſoners were guilty, and ſomething more he ſaid, I do not recollect what, but he ended it by ſaying—I hope they will be hanged if they are guilty.

Benjamin Rawſon,

Croſs-examined by Mr. Attorney-General.

Q. Where do you live?

A. With Mr. Auſtin, a Farmer, at Shoreham.

Q. What countryman are you?

A. I came out of Lancaſhire, I am a Liverpool man.

Q. What are you doing at Mr. Auſtin's?

A. Learning the farming buſineſs.

Mr. Plumer,

Mr. Plumer. Unleſs the other Witneſs I ſhall call carries it further, I ſhall wave my objection.

Mr. Attorney General. Have you had any talk with any other Juryman about theſe Trials?

A. I have not.

Q. You ſtate that upon your oath?

A. I have not, of any conſequence, I have not heard any other Juryman give any opinion.

Q. Have you upon your oath been to converſe with any and what Juryman upon this ſubject?

A. I believe I may have aſked one of them a queſtion.

Q. Who was with you when you went to that other Juryman?

A. This Gentleman was once with me.

Q. What is his name?

A. Auſtin.

Q. Was any other perſon, any clergyman or miniſter, with you?

A. The perſon I aſked was Mr. Wilmot, who is on the pannel, I was at his houſe, where I went with this Gentleman, and I aſked him in the courſe of converſation what he thought of the priſoners, and he ſaid he did not think anything about it.

Mr. Plumer. Were you directed by the priſoners or any of their agents to do this?

A. I was not.

Mr. Plumer. I do not know why the examination is purſued after I have declared that unleſs the other witneſs carries it further, I ſhall not inſiſt upon my objection.

Mr. Attorney General. I will take care that juſtice ſhall be done both to the public and the priſoners, with reſpect to every individual that I can hear of, who has ſpoken upon the ſubject to any Juryman improperly.

Mr. Plumer. I have no objection to that, I only wiſh to have it diſtinctly underſtood that this man was not ſent to any one of the Jurors by the priſoners, or any perſon employed by them.

Mr. Dallas. We underſtand that the other witneſs will

not carry it further, therefore we wave our objection, and challenge him peremptorily.

William Evereſt, Farmer, challenged by the crown.
Thomas Hogsfleſh, Farmer, challenged by the priſoners.
William Walter, Gent. not properly deſcribed in the pannel.
William Brooks, Farmer, challenged by the priſoners.
Henry Dyſon, Gent. challenged by the crown.
Robert Brown, Gent. challenged by the priſoners.
James Sale, Farmer, not a freeholder.
Valentine Hackleſton, Gent. challenged by the crown.
John Rainch, Eſq. challenged by the priſoners.
William Maynard, Farmer, excuſed on account of illneſs.
William Cronk, Farmer, ſworn.
Thomas Ralph, Gent. challenged by the crown.
James Harbroe, Eſq. challenged by the crown.

Mr. Scott. I muſt be chained down to the ground, my Lords, before I can ſit here, engaged as I am for the life of one of the gentlemen at the bar, and ſubmit to theſe challenges of the Crown without cauſe. My Lords, I beg to read to you what Chief Juſtice Eyre ſaid upon this ſubject in Mr. Tooke's caſe: 'I feel that the circumſtance, which is become abſolutely 'neceſſary, of making the pannels vaſtly more numerous than 'they were in ancient times, might give to the Crown an im-'proper advantage, ariſing out of that rule; and whenever we 'ſhall ſee that improper advantage attempted to be taken, it will 'be for the ſerious conſideration of the Court, whether they 'will put it into ſome courſe to prevent that advantage being 'taken.'

My Lords, the Crown has now challenged eleven Jurors without cauſe. I believe this is a greater number than was ever known before; and upon the authority of Chief Juſtice Eyre, I ſubmit that your Lordſhips muſt feel yourſelves called upon to interfere. But, my Lords, if I had not been reſtrained by a reaſon too mighty for me to oppoſe, I ſhould have reſiſted theſe challenges in the beginning. From that reſtraint I am now free; and I truſt your Lordſhips will not think me too preſumptuous, when you recollect that, in Lord Grey's caſe, at a time when the point was conſidered as much ſettled as it is pretended to be now, Lord Holt, then a Counſel at the

Bar, did argue it, and argued it moſt ſtrenuouſly; and in Layer's caſe, Mr. Ketelby argued it ſtill better, and put it in a new point of view.

My Lords, I feel this queſtion to be of the laſt importance, not only to the lives of the Gentlemen at the Bar, but to the lives and characters of us all; and therefore I have taken ſome pains to inform myſelf upon the ſubject—And I undertake to ſhew,

1ſt, That my oppoſition to the Crown's challenging without aſsigning the cauſe of challenge, is grounded upon the moſt indiſputable authority:

2dly, That the pretended authorities upon which the Counſel for the Crown muſt rely to ſupport their falſe doctrine, cannot poſsibly have the leaſt weight with the Court:

3dly, That, upon the general reaſoning of the thing, and of the conſequences which this doctrine muſt produce, a more monſtrous violation of law and juſtice cannot be attempted.

My Lords, as to my firſt propoſition, I ſhall prove that very ſhortly, by only reading the 33d Edw. I. ſt. 4.—'An Ordinance for Inqueſts—He that challengeth a Jury 'or Juror for the King, ſhall ſhew his cauſe.'—'Of Inqueſts 'to be taken before any of the Juſtices, and wherein our 'Lord the King is party, howſoever it be—It is agreed and 'ordained by the King, and all his Council, that from hence-'forth, notwithſtanding it be alledged by them that ſue for the 'King, that the Jurors of thoſe inqueſts, or ſome of them, be 'not indifferent for the King, yet ſuch inqueſts ſhall not re-'main untaken for that cauſe; but if they that ſue for the 'King will challenge any of thoſe Jurors, they ſhall aſsign 'of their challenge a cauſe certain; and the truth of the 'ſame challenge ſhall be inquired of, according to the cuſtom 'of the Court; and let it be proceeded to the taking of the 'ſame inquiſitions, as it ſhall be found, if the challenges be 'true, or not, after the diſcretion of the Juſtices.'

This is a poſitive Statute; and if it has been pretended that the Crown may challenge, and not be called upon for cauſe, until the whole pannel is gone through, I undertake to prove my ſecond propoſition, by ſhewing that this is all mere pretence, and there is no authority in the law for ſuch

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an uſurpation; and, even if there were, the rule of law is, that ‘ *in caſes ariſing upon a Statute, no eſtabliſhed form of legal* ‘ *proceeding can controul the Statute, but muſt be corrected by it.*’

The firſt man that dared to broach this wicked doctrine, in oppoſition to the Statute, was Stamford, in his Pleas of the Crown (162. b), where he ſays, ‘ By the Sta‘ tute of Edw. I. the King cannot challenge without cauſe ‘ —But this cauſe he need not ſhew immediately upon his ‘ challenge (as a common perſon muſt, if he were party ‘ againſt the King), but he muſt ſhew it when he has pe‘ ruſed all the pannel.’—This he has thought proper to ſay without any authority, and without any reaſon to ſupport it. It reſts merely on Stamford's opinion which is no authority. Indeed, there can be no authority to overturn the poſitive words of an Act of Parliament.

To this opinion of Stamford's, Sir M. Hale and Sir W. Blackſtone both refer, as their only pretence for the doctrine, (the 2d volume of Hale's pleas of the Crown 271, and the 4th volume of Blackſtone's Commentaries 353.) Mr. Serjeant Hawkins refers, indeed, to two caſes; but when theſe caſes are examined, they can have no weight with the Court.

The firſt is an anonymous caſe, in the 1ſt volume of Ventris, 309, which was an information of Forgery. ‘ The Coun‘ ſel for the King challenged, and were preſſed to alledge the ‘ cauſe; for 33 Edw. I. does take away the general chal‘ lenge, *quia non ſunt boni pro Rege*; but all the Court *(ſave* ‘ *Wylde, who ſeemed to be of another opinion)* ordered the pan‘ nel to be firſt gone through; and if there were enough, the ‘ King is not to ſhew any cauſe.’—Theſe were bold Judges, my Lords, to rule directly againſt an Act of Parliament.

The next is Ford, Lord Grey's caſe, in Sir Thomas Raymond, 473.—‘ In a trial at bar, in an information againſt ‘ Ford, Lord Grey, of Warke, and others, for taking away ‘ the Lady Henrietta Berkley, 20th Aug. 34 Car. II. the ‘ Counſel for the King challenged ſome of the Jurors ‘ who were returned out of the County of Surry; and ‘ the Counſel for the Lord Grey inſiſted, that the cauſe of ‘ the challenge ought to be *preſently* ſhewn, according to the

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'Statute 33 Edw. I. called an Ordinance for Inquefts; and 'to enforce them to do fo, the Counfel for the Lord Grey 'challenged *tous par-avail:* But refolved by the whole Court, 'that the King ought, by that Statute, to fhew caufe of his 'challenge, but not before all the Jurors of the pannel are 'called over; for, if there be enough befides thofe which are 'challenged, *no caufe fhall be fhewn of that challenge*; and 'therefore the defendants relinquifhed their challenge, and 'the Jurors find the defendants guilty.—Of this opinion 'is Stamford, Pl. Cron. 162, b.'—So here is Mr. Stamford brought in again, to juftify a direct violation of the law.

Thefe are the two firft cafes, I apprehend, that are to be found in the books that the Counfel of the Crown can cite in fupport of their doctrine: and thefe cafes ought to have no weight with the Court againft a pofitive Statute, even if they were lefs objectionable than they are; but when attentively confidered, they can have no weight at all.

Lord Coke thought that the opinions of Judges depend much upon their characters, and precedents *on the times* at which they are made. The Judges who made the firft precedent were, Rainsford, Twifden, Wylde and Jones; and *Wylde oppofed it.*—It was in Eafter Term, 29 Car. II. 1676, *(the latter end of Charles the Second's reign.)* The Judges who made the other were, Sir Francis Pemberton, Sir Tho. Jones, Sir Wm. Dolben, and Sir Tho. Raymond. The time was 34 Car. II. Michaelmas Term 1682, when Pemberton fat as Chief Juftice, in the fhort interval between the infamous Scroggs and the ftill more deteftable Jefferies, and when the Judges, my Lords, were accufed by Parliament, in the words of a great Lawyer, 'inftead of acting by law, of being actuated by their 'ambition, and of endeavouring to get promotion rather by 'worfhipping the rifing fun than by doing juftice.' And Sir Thomas Jones one of the very Judges who made both thofe precedents, was included in the articles of impeachment againft Scroggs, 'for having,' (in the words of thofe articles) 'traitorouſly and wickedly endeavoured to fubvert the funda-'mental laws of England.' The 7th volume of the State Trials, 479.

Sir

Sir Thomas Jones presided at the trial of Mr. Cornish, and Sir Francis Pemberton at the trial of Lord Russel; and both these trials were stigmatized at the Revolution, and the judgments reversed, by a solemn Act of the Legislature, because they had been obtained, in the words of the Legislature, '*by* '*partial and unjust constructions of law.*' The 8th volume of the State Trials, 471.

If this is not enough to damn these precedents, I have still more. This very Sir Francis Pemberton has held two opinions upon this subject: for in Count Coningsmark's trial for the murder of Mr. Thynn, who was a patriot, State Trials, 8th volume, 465, Sir F. Winnington challenged a Juror for the King; and C. J. Pemberton himself said, 'For what cause?'—*Sir F. Winnington:* 'My Lord, we take it that we need not 'shew any cause, unless there be any want of number in the 'pannel'—*Lord Chief Justice:* 'Then we must do him right, 'and tell him what advantage the law gives him. Tell, my 'Lord, you that understand English, that this gentleman is 'challenged for the King; and if the King shew any good 'cause for it, he must not be sworn; else he must—and the 'way for him to cause the King's Counsel to shew their cause '(if he desire it) *is to challenge all the rest.*'—Now, how does this agree with the doctrine of this same Chief Justice Pemberton, in the case reported by Sir Thomas Raymond?

Behold, then, my Lords, into what scrapes Judges get when they attempt to set up a practice against the law. The Act does not say a word about challenging all the rest; and here is C. J. Pemberton, in Count Coningsmark's case, setting up this doctrine of challenging *tous per availe*, which means, as I understand it, from Lord Coke's definition (in 2 Institutes 296) where he says, 'Tenant of the Land is tenant '*per availe*, because it is presumed that he hath *availe* and 'profit by the land,') that when the Crown challenges, the subject shall have *the availe and profit* of challenging all the rest in order to make the King's Counsel shew their cause; and then, in this case of Lord Grey's, Sir F. Pemberton contradicts his own former opinion. But the Act says, that '*the cause certain shall be assigned*, and that the truth of the

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' ſame challenge ſhall be inquired of, according to the cuſtom ' of the Court.' Now, what was the cuſtom of the Court when this Act was made? Certainly to ſhew cauſe at the time the challenge was made—Therefore unleſs the power of the Judges is greater than the power of the Legiſlature, all the Judges that ever lived have no authority to ſhake this Act of Parliament.

From this I conclude, that precedents upon ſuch ſubjects, made by ſuch Judges, in ſuch times, and with ſuch jarring opinions, cannot poſſibly have the leaſt weight with the Court. —And then the doctrine ſtands upon the opinion of Stamford alone; and that Stamford is not infallible, I quote what Lord Coke ſaid of him upon another ſubject, in the debates relating to the liberty of the ſubject, State Trials 7th vol. 150, ' Stamford, at firſt, was my guide; but my guide had de- ' ceived me—therefore I ſwerved from it: I have now better ' guides—Acts of Parliament, and other precedents—theſe ' are now my guides.'

So, here, my Lords, I contend, we have a better guide than Stamford; we have the 33 Edw. I. which poſitively ſays, ' that they who challenge for the King, ſhall aſſign of their ' challenge a cauſe certain,' without ſaying a ſyllable about the whole pannel being firſt peruſed. And Lord Coke, whoſe book is juſtly conſidered of the higheſt authority in the law, and between whom and Stamford there can be no compariſon, wrote ſome time after Stamford; and if this doctrine had been at all recognized, is it poſſible that this great luminary of the law ſhould not have mentioned it? and particularly as he felt ſtrongly the importance of this ſubject; for, before he begins to treat of challenges, he ſays, (in Coke Littleton, 156, a.) ' Foraſmuch as men's lives, fames, lands, and goods, are to ' be tried by jurors, it is moſt neceſſary that they be *omni ex-* ' *ceptione majores*; and therefore I will handle this matter the ' more largely.' Therefore, if ſuch a doctrine as this of Stamford's had prevailed, he certainly would have touched upon it; whereas neither here, nor in any other part of his book, does he ſay any thing like it, but quite the contrary; for he ſays, (in Coke Littleton, 156, b.) ' Note, that at the Common ' Law,

' Law, before the ſtatute of 33 Edw. I. the King might chal-
' lenge peremptorily without ſhewing cauſe, but only that
' they were not good for the King, and without being limited
' to any number. But this was miſchievous to the ſubject,
' tending to infinite delays and danger; and therefore 'tis
' enacted, Quod de cætero, licet per ipſos qui pro Domino
' Rege ſequuntur dicatur, quod juratores inquiſitionum illarum,
' ſeu aliqui illorum, non ſunt boni pro Rege, non propter hoc
' remaneant inquiſitiones illæ capiendæ; ſed ſi illi qui ſequun-
' tur pro Rege aliquos juratorum illorum calumniati fuerint.'
(Calumniati) ' aſsignent certam cauſam *calumniæ ſuæ*;' again,
my Lords, *Calumniæ*—' whereby, ſays Lord Coke, the King
' is now reſtrained.' So that Lord Coke ſays nothing about
the pannel being firſt gone through; and if I know any thing
of that great man's character as a lawyer, rather than have put
his hand to ſuch a doctrine as that, he would have thruſt it
into the fire. I think this completely gets rid of Stamford's
authority, and then this doctrine has not a leg to ſtand upon;
and it will be curious to ſee what crutches the learned Attor-
ney will uſe upon this occaſion.

And now I come to my laſt propoſition; and, to ſhew how
much ſome great Lawyers, at the time of the glorious Re-
volution, and ſince, have reprobated this doctrine, I ſhall firſt
quote a paſſage from Sir John Hawles's remark upon Fitz-
horris's trial, in the 4th volume of the State Trials 169.
After mentioning the ſhameful tricks that were practiſed in
Colonel Sidney's trial, and ſome others, he ſays, ' Another art
' uſed was to challenge for the King without cauſe, *where no*
cauſe could be ſhewn, ſuch Jurors as they did not like.' This is
what Sir John Hawles tells us, and I ſhall make great uſe of
it preſently.

In Layer's caſe, there is an irrefragable argument againſt
the doctrine, and ſhews the fatal conſequences of it in a moſt
glaring light.—Layer's caſe, the 6th volume of the State
Trials, 247—*Mr. Attorney General*: ' I challenge him for the
' King.'—*Mr. Ketelby*: ' Mr. Attorney is pleaſed to challenge
' him for the King; we humbly inſiſt on it, that Mr. Attorney
' is to ſhew his cauſe immediately. I own it has been other-
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'wise in one or two late inſtances: but I ſubmit it, if that 'practice ſhould prevail, whether the Act of Parliament 'made on that occaſion would not in effect be thereby abro-'gated. The Act is the 33d Edw. I.; and the words of it 'are, "If they that ſue for the King will challenge any 'Juror, they ſhall aſſign of their challenge a cauſe certain, 'and the truth of the ſame ſhall be inquired of, according to 'the cuſtom of the Court." Now, my Lord, I beg leave to 'obſerve upon this pannel, there are one hundred and odd 'perſons; if Mr. Attorney is not obliged to ſhew his cauſe of 'challenge, when he challenges for the King, till all the 'pannel is gone through, this Act of Parliament will be of 'no validity whatſoever. If there had been but a few returned '(twenty-four, or ſuch a number), then there might have 'been ſome colour for going through the pannel before there 'was any cauſe aſſigned for the challenge; but ſince this 'modern practice has obtained to make ſo numerous a pannel, 'if they are are not obliged to ſhew cauſe till the pannel 'is gone through, that law is entirely a dead letter, and of 'no ſignificancy.'—*Lord Chief Juſtice:* 'You know your 'objection is of no validity; you cite an Act of Parliament, 'and you know the conſtant practice is againſt you.'

Good God! what an anſwer! The Act of Parliament is admitted! but the practice is ſet up againſt it! How contrary is this to every principle of law and reaſon! Remember, my Lords, the ſtrong figure of Lord Hobart quoted by Twiſden in Maleverer and Redſhaw, in 1 Modern, 35, and again by Chief Juſtice Wilmot, in Collins and Blontern, in 2 Wilſon, 351:—'The Statute is like a Tyrant; where 'he comes, he makes all void.'—And the ſame principle is laid down, rather in a cooler manner, by Chief Juſtice Vaughan in Shepherd and Goſneld, in Vaughan's Reports, 169, 170, and agreed to by Chief Juſtice Parker, in the Attorney General *v* J. Chitty, Eſq. in Parker's Reports, 44, and ſanctioned and relied upon in the King *v* Hog, in 1 Term Reports, 728, viz. 'If the uſage have been to conſtrue 'the words of a Statute contrary to their obvious mean-'ing, ſuch uſage is not to be regarded; it being rather

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'an oppreſſion of thoſe concerned, than a conſtruction of the 'Statute.'

My Lords, in this caſe there are above two hundred upon the pannel. I aſk, then, that the figurative expreſſion of Lord Hobart, exemplified by this rule, may be applied to the preſent caſe; and I think the 33d of Edw. I. will no longer remain '*a dead letter and of no ſignificancy.*'

Now, to ſhew that the King's Counſel have gone the whole length of ſetting defiance to the 33d of Edw. I. I will cite Mr. Cowper's trial; and to ſhew the ſhamefulneſs of the practice, and that the King's Counſel have actually challenged under pretence of cauſe when in fact they had none, I will cite the trial of Mr. Horne Tooke.

In Mr. Cowper's trial, in the 5th volume of the State Trials, 195, the pannel being gone through before there was a full Jury, Mr. Cowper ſaid, 'If your Lordſhip pleaſe, the 'pannel is now gone through, I deſire they may ſhew ſome 'legal cauſe for their challenges.'—*Mr. Jones* (Counſel for the 'King): I conceive we are not bound to ſhew any cauſe, or 'the cauſe is ſufficient if we ſay they are not good for the King; 'and that is allowed to be a good cauſe of challenge, 'for what other cauſe can we ſhew in this caſe? You are not 'to ſhew your cauſe, you challenge peremptorily; ſo in this 'caſe the King does.'—*Mr. Baron Hatſell:* 'As for this matter 'of challenge, Mr. Jones, I think you ſhould ſhew your cauſe 'of challenge, though the law allows the priſoner liberty to 'challenge twenty peremptorily.'—*Mr. Jones:* 'I don't know, 'in all my practice of this nature, that it was ever put upon 'the King to ſhew cauſe.'—Then Mr. Cowper, truſting to the goodneſs of his cauſe, did not inſiſt upon it; otherwiſe Mr. Baron Hatſell, from what he ſaid, would certainly have called upon Mr. Jones for his cauſe.

But Mr. Horne Tooke's caſe is much ſtronger; for there that wonderful man, who in the midſt of his other vaſt attainments, ſtill lives, my Lords, the firm, undaunted, and unrivalled friend and advocate of the old Law and Liberty of England, ſaid this:—'I do not mean to argue with your 'Lordſhip and the Counſel; but I find myſelf compelled to 'tell your Lordſhip that I ſhould, if I had not been overruled,

'ruled by the ſuperior judgment of my Counſel, have con-
'tended very early againſt the challenges of the Crown.'

Mr. Juſtice Buller. Are not you aware you are very irregular in ſtating what parties ſay? In every caſe that you have quoted you cannot help ſeeing a deciſion againſt you.

Mr. Scott. I began by ſtating, that I humbly apprehend it is impoſſible that any Court can rule againſt an Act of Parliament.

Mr. Juſtice Buller. What I am ſaying is this, that you are acting extremely irregularly when ſtating what either the parties in the caſe or the Counſel ſaid.

Mr. Scott. My Lord, I certainly do not mean to do any thing irregular; I do not ſtate it as any authority to your Lordſhip, farther than the reaſoning it contains; I am ſhewing your Lordſhip, that in this caſe of Mr. Tooke's, the Attorney General, under the pretence of having challenged for the King for cauſe, actually challenged without any cauſe at all. If your Lordſhip has any objection to my ſtating Mr. Horne Tooke's argument I will forbear.

Mr. Juſtice Buller. Certainly, any thing determined by the Court you may ſtate.

Mr. Scott. Then I only ſtate, that Mr. Horne Tooke's caſe was this: The pannel was out, and there were only nine upon the Jury, and then Mr. Horne Tooke inſiſted upon it, under the letter of the Act, that the Counſel muſt ſhew their cauſe for challenge. There were three Gentlemen who were challenged; the King's Counſel ſhewed no cauſe; and the learned Attorney General ſaid, if your Lordſhip will allow me to read his words—

Mr. Juſtice Buller. No; ſtate what the Court ſaid.

Mr. Scott. The Attorney General admitted he had no cauſe.

Mr. Juſtice Buller. What did the Court do?

Mr. Scott. The Court took the three men that had been challenged by the Attorney General. Thus, my Lord, the Attorney General, truſting to the large number of individuals upon the pannel, challenges theſe three honeſt men, under a pretence of having cauſe againſt them; and when, by an unexpected circumſtance, he is driven to ſhew his cauſe, he is compelled *fairly* to confeſs *that he has none*, and to ſee thoſe very men that he had challenged, *for cauſe* "*calumniati*," ſit upon the trial.—Here, then, is a pretended practice, unſupported by the leaſt

authority, and directly in the teeth of a positive Statute. It is as contrary to justice and reason as it is to law; because those Gentlemen who are thus held up to the world by the Attorney General as men of such infamous characters that he can prove them in a Court of Justice to be unworthy of being trusted upon their oaths in a cause between the King and a Subject, have no remedy, as I believe, and no opportunity of vindicating their reputation. The words *calumniati* and *calumniæ* are fixed by the Statute upon those whom the Attorney General challenges; and it would be much better that the King should challenge peremptorily, because then only the lives of the defendants would be in danger; but, now, not only the lives of the prisoners are in danger, but the reputation of every man that is liable to be called upon a Jury is at the mercy of the Attorney General.

Why such an outrageous violation of law and justice should be permitted, I call upon the Attorney General to shew some good reason; and if he cannot, then I call upon the Court, not merely for a decision, which is easily made, but for some reason to satisfy the minds of those Gentlemen at the Bar whose lives, fortunes and reputations, are now at stake, and to satisfy also the minds of those Gentlemen of the county of Kent who go out to their neighbours thus grossly *calumniated*; or else to decide, as Judges by their oaths are bound to decide, that an Act of Parliament which says, 'That if they that sue 'for the King will challenge any of the Jurors, they shall 'assign of their challenge a cause certain,' is the law of the land; and that it is not in their power, nor in the power of all the Judges that ever lived, to add words to a Statute which are not to be found in that Statute; and that, therefore, the Attorney-General, who has now challenged one of the Jurors, *shall assign of his challenge cause certain.*

Mr. Fergusson. I shall not detain your Lordship one moment, but I feel it necessary that I should rise in support of this objection. I certainly was of opinion that this objection ought to have been taken in the outset of this cause. I was however over-ruled, as I ever will be, by those persons whose experience is greater than mine. When I found that the Gentlemen

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men who lead this cauſe, where againſt taking this objection, I wiſhed to diſſuade my friend from bringing it forward; but ſince he has brought it forward, ſince the queſtion has been agitated, I find it a duty, which I cannot refuſe to my own character, as well as to the cauſe in which I am engaged, to ſupport the objection, and to ſtate that my opinion firmly is, that the Crown can have no right to challenge without a cauſe. I ſhall not go into the law upon this ſubject, becauſe my friend has done it ſo largely and ſo ably that I cannot poſſibly add any thing to what he has ſaid. I ſhall only obſerve, to your Lordſhip, with reſpect to the practice, that at the time when, according to the ancient and uſual mode of proceeding in ſummoning Jurors, the pannel was confined to the number of forty-eight, which I believe in no inſtance anciently was infringed, it was then impoſsible——

Mr. Juſtice Buller. Do you mean there has ever been ſo ſmall a pannel as forty-eight ſince the Revolution?

Mr. Ferguſſon. I meant previouſly to that time, certainly: formerly forty-eight only were ſummoned, and then the priſoners could receive no material injury from the Crown refuſing to aſſign their cauſe till the pannel was gone through, becauſe in that caſe there was but one upon the pannel whom the Crown could challenge, without ſhewing cauſe, if the priſoner adopted the advice given by the Court to Count Coningſmark to challenge the reſt of the pannel, but it is in the power of a bad Judge (I know that ſuch a thing cannot occur in the preſent caſe) but it is in the power of a bad Judge to ſummon ſuch a pannel, that it is impoſsible the priſoners can ever go into the cauſe that the Attorney General has for challenging. I ſubmit, that according to the preſent practice in ſummoning ſo large a pannel, it is impoſsible the priſoners can have juſtice.

Mr. Juſtice Buller. Whether the reaſons which I ſhall aſſign for the opinion which I hold, may be ſatisfactory to the county of Kent, or any other deſcription of men, I am ſure is much more than I can take upon myſelf to ſay: but ſuch as my reaſons are, I undoubtedly ſhall not heſitate to pronounce them upon this and upon all other occaſions, taking the chance what may be the effect either of popular declamation or any other

reflection that may be thrown upon them. And I have no difficulty in saying, that I am most clearly of opinion the law is as firmly and as fully settled on this point, as any one question that can arise on the law of England. I will go further, and say, that every case which has been quoted against the conduct of the Attorney General in this instance, is a direct proof in favour of the power which he has exercised. I will also add, that the statute itself is not against it.

First, let us see what the words of the statute are, that the "inquest shall not remain untaken." Every decision has proceeded upon that ground; every case that has been decided upon the question, shews how it shall not remain untaken. The pannel is to be gone through, and when it is gone through, in order that the inquest shall not remain untaken, the Attorney General is called upon to shew his cause; and if he does not shew cause then, as Mr. Scott has said, the Jurymen must be called, and must be sworn, notwithstanding he has challenged them; and therefore, in the words of the statute, the inquest does not remain untaken.

Stamford, it is agreed, is of this opinion; but not only Stamford takes this as a clear point; Lord Hale and Mr. Justice Blackstone both state the same thing. It is said, however, they have done it upon the authority of Stamford, and therefore that that can go no higher than its source.

The case of Layer that is stated, is a direct authority against it. The objection was taken by Mr. Ketelby, and when Mr. Scott states the argument of Counsel upon us, he does not treat the Court respectfully. The material thing is, to look to what the Chief Justice says. He says, "You know your "objection is of no validity; you cite an act of Parliament, and "you know the constant practice is against you."

I have no doubt that it was not intentional, but Mr. Scott misrepresented the passage I stated: he exclaimed very much upon the expression of Lord Chief Justice Pratt in the case of Layer; he commented upon it as if the words "practice "against you" had been against the *act*, whereas the meaning of the Chief Justice was, that the practice was against the objection, and so it has been in all the cases.

Now,

Now, in Cowper's caſe, it is ſtill ſtronger; for there the pannel was gone through. Neither Cowper himſelf, nor any body elſe, thought of making an objection till the pannel was gone through, and after that he ſays, "If your Lordſhip pleaſe "the pannel is now gone through; I deſire they may ſhew ſome "legal cauſe for their challenges." Therefore it is clear that the Counſel for the Crown were not called upon to ſhew cauſe till the pannel was gone through.

In Mr. Horne Tooke's caſe the pannel was gone through before an objection was made by any body; and it ought never to be ſuppoſed by any man whatever, that a challenge imports a reflection upon a Juror. What ſhall we ſay to all the challenges that have been made by the priſoners? Do they reflect an imputation or indignity upon the perſons challenged? Not at all; they have a right by law to do it, and therefore it can throw no reflection upon any perſon whatever.

With reſpect to the obſervation that Mr. Ferguſſon made, I think he did not quite conſider in what manner the Court proceeds in criminal caſes. The Judge has nothing more to do with ſummoning the Jury than to award the rule, and he knows no more of the Jury when he comes to try the cauſe than a child; the Court iſſues its precept to the Sheriff, and the Jury which comes here is ſelected and ſummoned by the Sheriff---

Mr. Ferguſſon. I meant that the Judge directs the number of Jurors of which the pannel ſhall conſiſt.

Mr. Juſtice Buller. That is another thing. Now, here are ſome things more to be conſidered, which are what have happened in our own time.

It was not ſaid by the Chief Juſtice in Mr. Horne Tooke's caſe, that the Attorney General was or could be controlled by the Court in his number of challenges. In the trial which, through infirmity, was the only one I attended, which was Hardy's, the challenges were made by the Attorney General without the ſmalleſt objection on any part whatever.

There are ſome other caſes that have fallen within my notice. In the caſe of Lord George Gordon, no objection was taken by any body; the Attorney General challenged juſt as many as he thought fit. In De Lamotte's caſe, whom I alſo

tried, nobody thought of it: and there is not only a conſtant modern practice, but a practice as ancient as the ſtatute itſelf, to prove that the true conſtruction of the ſtatute is what I have mentioned; and there is no caſe, no period, in which a different determination has been made. It appears to me one of the cleareſt points that can be.

Mr. Juſtice Heath. The ſtatute is clear as connected with the cuſtom. The words of the ſtatute are, the "inqueſt ſhall "not remain untaken for that cauſe," (that is, for the challenge of the King) "but if they that ſue for the King, will challenge "any of thoſe Jurors, they ſhall aſſign of their challenge a cauſe "certain, and the truth of the ſame challenge ſhall be inquired "of, according to the cuſtom of the Court." What has been the cuſtom of the Court? It has been, that it ſhould be inquired into after all the pannel is gone through; ſo have all the caſes that have been cited, and all the authorities that have been cited, have proved the reverſe of the propoſition for which they have been produced. With regard to the circumſtance of having more Jurors now than in former times, that is for the benefit of the priſoner, to give him a ſpeedier trial.

Mr. Juſtice Lawrence. The queſtion upon this occaſion is, what is the true conſtruction of the ſtatute? and we have been referred to the authority of Lord Coke. Lord Coke, in his comment upon Magna Charta, lays down that the beſt expoſitions upon that and all other ſtatutes, are our books, and uſe and experience. Now, what has been the conſtruction of this ſtatute by our books, and by uſe and experience? We find in one of our oldeſt writers upon Crown Law, that he ſtates the conſtruction of the ſtatute has been that which is contended for now on behalf of the Crown, that the pannel ſhall be gone through before the Crown ſhall be put to aſſign cauſe for its challenges. Such has been the conſtruction of it by Lord Hale, one of the ableſt writers upon the Crown Law, and one of the moſt worthy and amiable of men, upon whom no reflection can be caſt, whatever may be upon other men.

It has been ſaid this practice commenced in bad times, when Judges looked to the riſing ſun. Was Lord Holt ſuch a man? Look at the caſe of Lord Preſton. The Counſel for the King challenged

challenged a Juror, and Lord Preſton deſired that cauſe might be ſhewn. Lord Holt ſaid, "Cauſe is not to be ſhewn by the "King's Counſel till all the pannel be gone through; and then "if there be not twelve to try, then they are bound to ſhew "cauſe; that is the law." And Lord Holt was ſo clear that was the law, that he told Lord Preſton he would not have the time of the Court ſpent by aſſigning Counſel to argue it. That was the conduct of Lord Holt; and I take it that no man, let him be ever ſo fond of liberty, or attached to the law and conſtitution of the country, can ſet himſelf up as a perſon more attached than he was.

It has been ſaid that the practice was, before the revolution, to have but forty-eight Jurors. That is a miſtake. In Sir Henry Vane's caſe ſixty Jurors were returned. Since the revolution a hundred were returned in the caſe of Layer. In the caſe of Charnock and others, tried before Lord Holt, who, I ſuppoſe, directed the proper number of Jurors, (and he was not likely to direct an improper number) one hundred and ſixty were returned; and in the caſe of Mr. Townley, an hundred and eight. The conſtant uniform practice is againſt this objection. It ſeems to me, therefore, that there is no ground whatever for it, and that the Attorney General ought not to be put to aſſign the cauſe of challenge till the pannel is gone through, and then that the inqueſt may not remain untaken, he muſt aſſign the cauſe of his challenge.

Richard Ray, Farmer, ſworn.

William Rapſon, Eſq. not properly deſcribed in the pannel.

James Chapple, Diſtiller, ſworn.

William Roots, Farmer, challenged by the priſoners.

William Tyler, Gent. not properly deſcribed in the pannel.

John Shaw, Gent. challenged by the priſoners.

John Tyler, Gent. challenged by the priſoners.

James Alexander, Timber-merchant, challenged by the priſoners.

Edward Worger, Farmer, not a freeholder.

Edward Whitaker, Farmer, challenged by the Crown.

Benjamin Fletcher, Farmer, not a freeholder to the value of 10l. a year.

Richard Green, Farmer, excuſed on account of illneſs.
Henry Streatfield, Eſq. excuſed on account of illneſs.
William Marchant, ſen. Farmer, challenged by the Crown.
William Haynes, Farmer, challenged by the Crown.
Henry Woodhams, Farmer, challenged by the priſoners.
Richard Allnutt, Eſq. challenged by the priſoners.
Michael Saxby, Farmer, ſworn.
Thomas Sutton, Farmer, challenged by the priſoners.
John Wenham Lewis, Eſq. challenged by the Crown.
Thomas Johnſon, Farmer, challenged by the Crown.
Silas Newman, Farmer, ſworn.
Iſaac Tomlyn, Eſq. ſworn.
John Taylor, Farmer, challenged by the Crown.
Thomas Fry, Farmer, challenged by the Crown.
Thomas Selby, Eſq. challenged by the Crown.
Thomas Knowles, Farmer, challenged by the Crown.
John Taylor, Eſq. challenged by the Crown.
Barnard Blake, Eſq. not properly deſcribed in the pannel.
William Blatcher, Eſq. challenged by the Crown.

Mr. Plumer. My Lord, the Crown have now challenged above twenty; your Lordſhip will recollect what was ſtated by Lord Chief Juſtice Eyre, in the caſe of Mr. Tooke.

Mr. Juſtice Buller. Have you any deciſion of the Court? The miſchief, if there is any, muſt be corrected by Parliament, it cannot be by us.

Mr. Plumer. That learned Judge enquired into the number that had been challenged by the Crown in that inſtance———

Mr. Juſtice Buller. He might ſo; but will you ſhew me any authority for it; any dictum?

Mr. Plumer. I have no other authority than this of Lord Chief Juſtice Eyre, a Judge of great experience in Crown Law.

Mr. Juſtice Buller. If he had heard any argument upon the ſubject, perhaps he might have thought again, and have perceived that the Court has no power.

Mr. Plumer. He certainly had conſidered it.

Mr. Juſtice Buller. He certainly did not decide it; there is no deciſion upon the ſubject.

Mr.

Mr. Gurney. Lord Chief Juſtice Eyre ſaid, when he found that ſeven only had been challenged by the Crown, that the indulgence had not been abuſed.

Mr. Juſtice Buller. Mr. Gurney, I do not conſider it an indulgence.

Mr. Solicitor General. It is no indulgence; and it is the groſſeſt miſconſtruction of the act to ſuppoſe the contrary.

Mr. Juſtice Buller. He did not decide it.

Mr. Dallas. It was our duty, when we found it ſtated as words falling from Lord Chief Juſtice Eyre, to mention it; it was our duty at leaſt to bring that authority before the Court; now it is diſpoſed of by the Court, we acquieſce.

Richard Packham, Gent. not properly deſcribed in the liſt delivered to one of the priſoners.
Richard Hoſmer, Farmer, challenged by the Crown.
James Atkinſon, Farmer, challenged by the Crown.
Thomas Seabrook, Farmer, challenged by the Crown.
Thomas Henham, Farmer, ſworn.
William Fleet Larkin, Gent. challenged by the priſoners.
Walter Barton, Farmer, ſworn.
John Miller, Gent. ſworn.
John Simmons, Farmer, ſworn.

THE JURY.

Charles Haſkins,	Silas Newman,
William Small,	Iſaac Tomlyn,
William Cronk,	Thomas Henham,
Richard Ray,	Walter Barton,
James Chapple,	John Miller,
Michael Saxby,	John Simmons.

The Clerk of Arraigns charged the Jury with the Priſoners in the uſual form.

The Indictment was opened by Mr. ABBOT,

MR. ATTORNEY GENERAL,

May it please your Lordship,

Gentlemen of the Jury,

IN the discharge of the duty of the office which I hold, I have been most imperiously called upon to lay before a Grand Jury of this county the charge contained in the indictment, which you are now solemnly sworn to try; and Gentlemen, I am bound to act according to the best sense I can form of my duty; and therefore, however painful it is to me so to state this matter to you, I hold it to be my bounden duty to state to you that I am not aware how it is consistent with possibility that, upon the trial of this indictment, you can receive such an answer from the prisoners, to the proof, which I have to lay before you, as can justify you in the discharge of that duty, which you have this day taken upon yourselves, namely, to make deliverance according to the truth between the country and the prisoners at the bar, in pronouncing that they are not guilty. I say, it is not within the reach of my comprehension what facts can possibly exist, that will form an answer to the evidence which I have to lay before you, if you shall think that evidence worthy of credit.

Gentlemen, the charge made by this indictment is, in the language of the law, First, a charge of compassing the King's death: Secondly, a charge of adhering to his Majesty's enemies—giving them aid and comfort: And lastly, a charge of compassing and imagining to invite strangers to invade the land. With reference to each of these charges, the indictment has stated various overt acts, and I shall state to you, in a very few words, under the correction of the wisdom which presides here, what an overt act of High Treason is.

In order that persons accused of High Treason may know what the charge is that they are to meet in a Court of Justice, and may therefore be prepared for their defence, the law not

only

only requires that you ſhould impute to them that they have been guilty of compaſsing his Majeſty's death, of adhering to his Majeſty's enemies, giving them aid and comfort, and of intending to invite ſtrangers to invade the land, but it alſo requires that the indictment ſhould detail the overt acts, that is, thoſe facts, and thoſe circumſtances, which, if they have taken place, are proofs of that imagination to put his Majeſty to death, of that adherence to the King's enemies, and of that intention to invite ſtrangers and foreigners to invade the land: and it is neceſſary, in order to convict the priſoners, that the overt acts, or ſome of them, as laid in the indictment, ſhould be proved: that the proof ſhould be made by two witneſſes to the ſame overt act, or by one witneſs to one overt act, and by another witneſs to another overt act of the ſame Treaſon.—This is ſufficient evidence within the meaning of the law, and it is competent alſo, after the overt acts ſtated upon the indictment are proved, to give evidence of other overt acts of the ſame nature, though not laid in the indictment, on the part of the proſecution.

It is not my intention, Gentlemen, to trouble you with any further obſervation upon the law, which will be to be applied to the facts of this caſe. If the notion of the law, which I am about to ſtate, or the inferences which I ſhall draw from the facts, happen to be incorrect, I am ſure I feel it to be my duty equally on the part of the priſoners as on the part of the public, —and indeed it never can be the intereſt of the public that juſtice ſhould not be fairly diſpenſed between the country and the priſoners.—I feel it to be equally my duty both to ſupplicate thoſe who will deliver the law to you with authority, to correct me fully with reſpect to any miſtake that I may make in point of law, or any wrong inference which, in their judgment, I may deduce from the facts, ſubmitting the inferences from facts ultimately to your judgment. As to the law, I ſhall ſay only, that I take it to be clear that, provided the facts laid in this indictment are proved to your ſatisfaction, they do unqueſtionably in law bring the caſes of the priſoners within the true meaning of the acts of Parliament, upon which the indictment is framed.

Gentlemen,

Gentlemen, with reſpect to the facts, I ſhall wiſh to execute the duty, which is impoſed upon me in this momentous buſineſs, by endeavouring, with as little of obſervation as I can, but with as much as may be neceſſary to connect the circumſtances of this caſe, ſo far as to make the caſe intelligible to you, to detail clearly thoſe facts, which, I apprehend, will be proved—will be proved by evidence of a nature, the greateſt part of which admits of no contradiction; that is, by written evidence. In this manner I propoſe to ſtate to you what are the circumſtances, which conſtitute, in the apprehenſion of the perſon who now addreſſes you, the guilt of the priſoners upon whoſe guilt or innocence you are this day to decide.

In order to make this caſe more intelligible, it may be uſeful firſt to ſtate to you ſome circumſtances which happened upon Tueſday the 27th, and Wedneſday the 28th of February laſt. After I have ſtated thoſe circumſtances to you, I ſhall then take leave to call your attention to the conduct of the reſpective perſons at the bar for ſeveral days previous to thoſe days, Tueſday the 27th and Wedneſday the 28th of February. You will find, if I am correctly inſtructed, that upon the afternoon of Tueſday the 27th of February, three of the perſons now at the bar, namely, the perſon indicted by the name of Quigley, or O'Coigly, another priſoner of the name of Allen, and another of the name of Leary, came from Whitſtable, in this county, to a place called Margate, to an inn called the King's Head; there Mr. O'Coigly came, as I ſhall have occaſion to prove to you, in the name and character of a Captain Jones. You will be ſo good as to keep in memory that fact throughout what I have to ſtate to you. Allen, who came with him, came in the character of his ſervant, which he is not; and Leary, who came with them, and who is the ſervant of Mr. O'Connor, came as the ſervant of Mr. O'Connor, and, as I think I ſhall be able to ſatisfy you, to meet his maſter Mr. O'Connor at the King's Head, Margate. I ſhall ſtate to you preſently, but it ſeems to me to be convenient for the purpoſe of your underſtanding this caſe, that I ſhould not do it at this moment, in what manner theſe three perſons travelled upon that Tueſday from Whitſtable to Margate.

They

They had not been at the King's Head at Margate any conſiderable time, whether a quarter of an hour, or more or leſs, is not very material, when there arrived at the ſame inn Mr. O'Connor, who, you will find throughout this buſineſs, aſſumed the name of Colonel Morris, and the other priſoner, of the name of Binns, who, you will find throughout this buſineſs, took the name of Williams, and was correſponded with by that name by Mr. O'Connor, as I ſhall prove to you by his letters, which will be produced preſently. They came upon the ſame afternoon from Deal, in this county, to the King's Head at Margate. In the courſe of that evening, and during the next morning, (I ſhall ſtate to you hereafter ſomewhat more in detail the circumſtances which are the foundation of the repreſentation which I am now making to you) they conducted themſelves in that houſe as I now mention; namely, Mr. O'Connor aſſumed the name of Colonel Morris, and Mr. O'Coigly aſſumed the name of Captain Jones; Allen acted as the ſervant of Captain Jones; Leary acted (as he was) as the ſervant of Mr. O'Connor; and Mr. Binns profeſſed to be a gentleman, under the name of Williams, in the company of Colonel Morris and Captain Jones. They ſpent their evening and part of the next morning under ſuch circumſtances, as I have now repreſented to you.

In the courſe of the next morning, whilſt they were meditating, as I ſhall be able to prove to you, the removal of all their baggage from Margate to Deal, in this county, for a purpoſe, as to the nature of which I think you will have no doubt preſently, they were arreſted by two Officers, who will be called to you, the one of the name of Revett, and the other of the name of Fugion. Mr. O'Coigly was ſitting in a room, where breakfaſt was preparing for him, and there hung upon a chair in that room a great coat, in the pocket of which you will preſently be ſatisfied this black pocket-book, which I now have in my hand, was contained; Mr. O'Coigly having ſlept in a room on one ſide of that in which he was ſitting, and Mr. O'Connor having ſlept in a room on the other ſide of that in which he was ſitting. Mr. O'Coigly was arreſted under the circumſtances which I am now mentioning to you; Mr.

O'Connor

O'Connor coming from his room to the ſame breakfaſt-room was arreſted alſo. Mr. Binns, Allen, and Leary were likewiſe arreſted in different parts of the houſe.

I ſhould have ſtated to you, that on the preceding evening, when O'Coigly, Allen, and Leary came to this houſe called the King's Head, they brought with them in a cart which was driven by a perſon of the name of Thomſett, who will be called as a witneſs, a very large quantity of baggage, deal boxes, portmanteaus, mahogany boxes, leather caſes, and other matters of that ſort, which you will have an opportunity of ſeeing, and which therefore I need not more particularly deſcribe to you. When Mr. O'Connor, under the name of Colonel Morris, and Mr. Binns, under the name of Williams, came from Deal to Margate, they brought no baggage with them, and you will permit me to beg your attention to this fact, becauſe it will be material, I think, for your conſideration preſently. The whole of the baggage was under the care of Allen and Leary, as the ſervants of Colonel Morris, that is, Mr. O'Connor, and of Captain Jones, that is, Mr. O'Coigly, except that ſome of theſe boxes, which were more valuable in their contents, appear I think to have been taken into the bed-room in which Morris and Jones ſlept.

Gentlemen, having ſtated to you this circumſtance, that theſe perſons came to the ſame houſe on the preceding evening, and now adding, whilſt it occurs to me, that upon Mr. O'Connor's coming as Colonel Morris with Mr. Binns to the King's Head at Margate, he or Binns, one or the other of them, aſked if there was a Captain Jones there; and that O'Coigly was introduced as Captain Jones, and that they all ſpent the evening and part of the next morning in the manner in which I have repreſented, it is hardly neceſſary for me here to obſerve that, if the caſe reſted upon this, you could not have a doubt but that they were perſons tolerably well acquainted with each other. When this party was ſeized in the houſe, I think you will find by evidence that accompanied that fact, as well as by evidence which I have to offer you as to their conduct ſubſequently, and after they were brought to London, that they themſelves were ſo apprehenſive that it would be dangerous to acknowledge any acquaintance

acquaintance with each other, that they positively denied knowing each other, and that they were so well satisfied that the contents of the baggage, and the other things which were seized, were property that it was extremely dangerous indeed for them to acknowledge as being theirs, that, notwithstanding the value of that property, you will find presently, if I am rightly instructed as to the evidence, that they not only repudiated all knowledge of each other, but that they most positively denied that any of them were the owners of that baggage, or any part of it, the contents of which I am about to mention to you. I have reason to think that the gentleman who was apprehended as Colonel Morris, was not known to be Mr. O'Connor till he arrived in town, and the question was there asked him, who he was? I state this because I take the apprehension of Mr. O'Connor to have been that which was as unexpected to those who did apprehend him, as it was to the person who was apprehended.

Gentlemen, I will now state to you one paper, and one paper only at present, meaning to call your attention to it again by and by, which was found in the pocket-book of Mr. O'Coigly; when I call it the pocket-book of Mr. O'Coigly, it might perhaps, if it were necessary, be proved to be so, by troubling you with asking several questions to ascertain whose was the property of that great coat, in the pocket of which the book was found; but the contents of the book itself most decidedly prove it to be the pocket-book of O'Coigly, and they not only most decidedly prove it to be the pocket-book of O'Coigly, but I think you will find that they establish that Mr. O'Connor, under the name of Colonel Morris, and some other name, for I think he used another name, the name of Wallis, was also the correspondent of that Mr. O'Coigly, as well as the correspondent of Mr. Binns, who went under the name of Williams.

I shall state the paper in the very words of it, and, Gentlemen, I beg your most particular attention to it, because I have no hesitation now to state, stating it always under the correction of those who will give you the law with more authority than any of us sitting round this table can presume to venture to state ourselves as giving it to you; but I do venture to state as most clear, that when I have gone the length of satisfying you

that

that any man or men had the cuſtody of this paper with the intent to carry it into France, for the purpoſe of its being put into the hands of thoſe to whom it is addreſſed, and when I have gone the length of doing that by ſuch evidence as the law of England requires in the caſe of High Treaſon, it is not poſſible for a Jury, acting according to their oaths, to ſay that that individual, or that thoſe individuals are not guilty of High Treaſon. Gentlemen, great as the importance of this paper is to all the priſoners, who may be affected by any thing relative to it, I think I am warranted now in ſaying, that I ſhall have occaſion preſently to read one or two papers, but more particularly one in the hand-writing of Mr. O'Connor, the priſoner at the bar, which, with reference to him, is full as important as this.

Gentlemen, this paper is thus addreſſed, and it is with very painful feelings that I ſtate to you that it could be ſo addreſſed from any perſons in this kingdom to thoſe into whoſe hands unqueſtionably it was meant to be delivered:—"The "Secret Committee of England to the Executive Direc- "tory of France."——"Citizen Directors, We are called "together on the wing of the moment, to communicate to you "our ſentiments: the Citizen who now preſents them to you, "and who was the bearer of them before, having but a few "hours to remain in town, expect not a laboured addreſs from "us, but plainneſs is the great characteriſtic of republicans.

"Affairs are now drawing to a great and awful criſis: ty- "ranny, ſhaken to its baſis, ſeems about to be buried in its "own ruins. With the tyranny of England that of all Europe "muſt fall: haſte, then, great nation! pour forth thy gigan- "tic force: let the baſe deſpot feel thine avenging ſtroke; and "let one oppreſſed nation carol forth the praiſes of France at "the altar of liberty."——Now, Gentlemen, I beg your attention to the next paſſage I am going to read—"We ſaw "with rapture your proclamations," that is, we, England, ſaw with rapture the proclamations of you, the Executive Directory of France. "They met our warmeſt wiſhes, and "remove doubts from the minds of millions. Go on, Engliſh- "men will be ready to ſecond your efforts." So much as to the diſpoſition of our countrymen.

" The ſyſtem of borrowing, which has hitherto enabled our " tyrants to diſturb the peace of a whole world, is at an end: " they have tried to raiſe a kind of forced loan," that is, the voluntary contributions, " it has failed. Every tax diminiſhes " that revenue it was intended to augment; and the voluntary " contributions produce almoſt nothing. The ariſtocracy pay " their taxes under that maſk; the poor workmen in large " manufactories have been forced to contribute, under the " threat of being turned out of employ. Even the army have " been called upon to give a portion of their pay to carry on " the war; by far the greateſt part have peremptorily refuſed " to contribute to ſo baſe a purpoſe: and the few that have " complied, have in general been cajoled, or reluctantly com- " pelled to it."—Gentlemen, the wickedneſs of this paper is augmented in a twenty-fold degree, by the falſehood of it.

" Engliſhmen are no longer blind to their moſt ſacred claims; " no longer are they the dupes of an imaginary conſtitution; " every day they ſee themſelves bereft of ſome part of the poor " fragment of democracy they have hitherto enjoyed; and they " find, that in order to poſſeſs a conſtitution, they muſt make " one.

" Parliamentary declaimers have been the bane of our free- " dom; national plunder was the object of every faction, and " it was the intereſt of each to keep the people in the dark; " but the deluſion is paſt, the Government has pulled off its " diſguiſe, and the very men"—I wiſh this paſſage to be deeply attended to—" the very men, who, under the ſemblance of mo- " derate reform, only wiſh to climb into power, are now glad " to fall into the ranks of the people. Yes, they have fallen " into the ranks, and there they muſt for ever remain, for " Engliſhmen can never place confidence in them."——Who they are it will be incumbent upon thoſe to explain to you who had the poſſeſſion of this paper.

" Already have the Engliſh fraternized with the Iriſh, and " Scots, and a Delegate from each now ſits with us. The " ſacred flame of liberty is rekindled; the holy obligation of " brotherhood"—The very words of the teſt of that union which I ſhall have occaſion to take notice of to you preſently

was about to be created in this country—"The holy obliga-
"tion of brotherhood is received with enthusiasm: even in the
"fleets and the armies it makes some progress: disaffection pre-
"vails in both, and united Britain burns to break her chains.
"Fortunately we have no leader. Avarice and cowardice
"have pervaded the rich, but we are not therefore the less
"united: some few of the opulent have, indeed, by speeches,
"professed themselves the friends of democracy; but they have
"not acted: they have considered themselves as distinct from the
"people, and the people will, in its turn, consider their claims
"to its favour as unjust and frivolous. They wish, perhaps, to
"place us in the front of the battle, that, unsupported by the
"wealth they enjoy, we may perish; when they may hope to
"rise upon our ruin: but let them be told, though we may
"fall through their criminal neglect, they can never hope to
"rule; and that Englishmen, once free, will not submit to a
"few political impostors.

"United as we are, we only wait with impatience to see
"the Hero of Italy, and the brave veterans of the Great
"Nation: myriads will hail their arrival with shouts of joy.
"They will soon finish the glorious campaign; tyranny will
"vanish from the face of the earth, and, crowned with laurel,
"the invincible army of France will return to its native
"country, there long to enjoy the well-earned praise of a grate-
"ful world, whose freedom they have purchased with their
"blood."——This paper, Gentlemen, you will find, is under a seal, and it is dated the 6th Pluviose, A. R. P. G. 6. which I take to mean in the sixth year of the Gallic Republic.

I shall proceed now to state to you the circumstances under which these different persons came from London to the different parts of this county, in which it will appear from the evidence that they were, and I shall submit to you, that those circumstances, connected with the other facts to be given in evidence, will leave no doubt in your minds with what intentions, as to that paper, these parties came into the county of Kent. Gentlemen, the prisoner Binns, who upon this expedition went by the name of Williams, occupied the lodgings of a brother of his, a person of the name of Benjamin Binns, who will appear

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to you, upon the evidence, to be pretty closely connected with the prisoner O'Coigly, at No. 14, Plough-court, Fetter-lane, at the house of a person of the name of Evans, who at that time was Secretary to a society which has been known in this country by the name of the London Corresponding Society. Mr. Benjamin Binns being out of this country, the prisoner John Binns, who went in this transaction by the name of Williams, occupied his lodgings at that house. You will also find, that shortly previous to the time of which I am now speaking, namely, Wednesday the 21st of February, a Mr. and Mrs. Smith, having in that house one floor of it as their separate dwelling-place, the prisoner Binns hired for the prisoner Allen, (who appeared in this transaction as the servant of O'Coigly, when he went under the name of Captain Jones), hired for Allen a room in that part of this house, No. 14, which formed the apartments of Mr. and Mrs. Smith.

Upon the 21st of February the prisoner Binns left London, as I submit to you, for the purpose of hiring vessels to go to France, and to carry those persons, or some of them whom I have named, and their papers, and such other intelligence as they were capable of giving. He left London. He came down to Gravesend, I think, in the hoy; at Gravesend he took the coach to Rochester; upon the Thursday he came to Canterbury; and upon the Friday morning he applied himself to two persons who will be called to you as witnesses, one of the name of Claris, the other of Mahoney, and represented himself to have some concern in what he termed the smuggling line, and expressed a wish for a recommendation to some persons at Whitstable. And I beg your attention to this circumstance, that upon the Friday he wished to have recommendations to this place called Whitstable. These witnesses will inform you, that in the course of that conversation the names of three or four persons, all of whom will be called to you as witnesses, who live at Whitstable, and were the owners of vessels, were mentioned to this Mr. Binns: that upon the Friday morning he went from Canterbury to Whitstable, and that he there saw several other witnesses who will be called to you. With those other witnesses he entered into treaty, and with each of them

for a boat, in the firſt inſtance to go to Fluſhing: it was repreſented to him that he could not have a boat to go to Fluſhing, becauſe the port being in the poſſeſſion of the enemy, and all veſſels there under an embargo, the veſſel which he wiſhed to hire would not have the means, or rather would not have the permiſſion, to come back again to this country; that it was therefore an extremely dangerous buſineſs. The danger with reſpect to Fluſhing being ſtated, a propoſition was then made on his part that they ſhould go to Havre, to Calais, or ſome other place, I think, upon the coaſt of France; and upon a repreſentation how extremely dangerous this ſervice was, you will find, from the evidence of all theſe witneſſes, the ſame fact being confirmed by the evidence of all the Whitſtable witneſſes, and by the witneſſes who will be called from Deal, and therefore in truth proved by five, ſix, or ſeven witneſſes at leaſt, that Mr. Binns repreſented that there could be no hazard of that ſort; that he had the means of inſuring the return of the veſſel; that they might depend upon it that the veſſel would not be detained there more than two or three hours at the utmoſt: and that he had ſo much in his power the means of ſecuring the return of the veſſel, that he intimated to ſome of them the poſſibility of receiving back a cargo, which you know in the terms of perſons who ſmuggle upon the coaſt of Kent, as well as upon other coaſts, at leaſt I happen to know it from official information upon ſubjects of this ſort, they call a Crop: that they might have a Crop back again. They repreſenting ſtill the difficulties of the buſineſs upon which he wiſhed them to engage, ſtated further the abſolute neceſſity, if they undertook this buſineſs, of being extremely well paid for it; and you will be ſo good as permit your attention to go along with me when I ſtate this fact, that it was agreed that no leſs a ſum than three hundred pounds, or three hundred guineas, (when I come to ſtate to you the contents of the boxes, you will ſee the materiality of this,) ſhould be depoſited: it was firſt propoſed that it ſhould be depoſited by Binns in the hands of Claris of Canterbury; but it was inſiſted on the other hand, that it ſhould be depoſited in the Bank of Canterbury, as a ſecurity for the return of the veſſel. And beſides that depoſit of three hundred pounds,

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or three hundred guineas, the very large ſum of one hundred and fifty pounds, or guineas, was to be given for the trip over to Fluſhing, or to any other of the places which I have mentioned, in caſe the veſſel came ſafe back, and came immediately back. If ſhe did not come immediately back, then the three hundred pounds were to remain as a depoſit for the payment of a given ſum per month during the time that ſhe ſhould be detained in that country.

Gentlemen, this happened as I before ſtated, upon the Friday morning, the 23d. It appears, however, that Mr. Binns did not like theſe terms; he thought them too extravagant, in all probability he thought them too extravagant, and he therefore returned in the morning of Friday to Canterbury, and in the courſe of the next morning he went to Deal, for the purpoſe of trying whether at Deal he could get a boat, and if he could, whether he could get it upon better terms. I ſhall call to you two or three perſons with whom he had converſation when he was at Deal, upon the Saturday morning, and you will find from the evidence which they have to give to you, that he made the ſame ſort of propoſitions to them which had been made to the men at Whitſtable: that they, however, propoſed to agree with him upon more reaſonable terms, and I think a perſon either of the name of Campbell or of Hayman, who will be called, pointed out the extreme probability, if they came early in the next week, of finding a boat that, under neutral colours, would go to Fluſhing, Calais, or Havre, for the ſum of ſixty pounds, or ſixty guineas.

Mr. Binns, upon the Saturday evening, returned again to Canterbury, and I now beg leave to remind you that it may be material that you ſhould recollect that the firſt place he went to was Whitſtable, for, in the converſations which paſſed at Whitſtable, and the converſations which paſſed at Deal, you will find that Mr. Binns ſtated, that three or four perſons, who had a concern in this tranſaction, would be at Whitſtable on the Sunday evening. When Mr. Binns got to Canterbury on the Saturday evening, under the idea that he might get to London before the perſons that were concerned with him in this tranſaction ſhould ſet out from London; he went up from

Canterbury to London, I believe in the Canterbury coach, but did not arrive in London time enough to be there before Colonel Morris and his ſervant, that is, Mr. O'Connor and his ſervant, and Captain Jones, that is Mr. O'Coigly, and his ſervant, were on board the Whitſtable hoy, and had ſailed from the tower ſtairs. For the purpoſe of your underſtanding this caſe, it becomes neceſſary for me here, Gentlemen, to ſtate to you, before I mention the tranſactions of the Sunday, the tranſactions of the Saturday, as far as they relate to the priſoners, other than Binns, who aſſumed the name of Williams. It will appear in the evidence that Mr. O'Connor had a lodging in Stratton-ſtreet, which is at the weſt end of London; it will appear alſo that he was intimate with a perſon of the name of Bell, who lived in Charter-houſe-ſquare, and that he occaſionally dined with that gentleman, that he occaſionally ſlept at that gentleman's houſe, and it will likewiſe appear to you, that Mr. O'Coigly, introduced as Captain Jones, occaſionally dined at that houſe with Mr. O'Connor. Upon the Saturday, previous to the Sunday, when they came down together in the Whitſtable hoy, Mr. O'Connor and Mr. O'Coigly, the latter under the name of Captain Jones, dined together with Mr. Bell, of Charter-houſe-ſquare; that evening Mr. O'Connor ſlept at Mr. Bell's; that evening Mr. O'Coigly ſlept, under the name of Captain Jones, at No. 14, Plough-court, the houſe of Evans, in which lodgings had been taken for Allen, who perſonated the ſervant of Mr. O'Coigly, aſſuming the name of Captain Jones, but who was not his ſervant; and it will be proved to you that Mr. O'Coigly, who the next morning went down to Whitſtable, under the name and appearance of Captain Jones, ſlept on the Saturday night in the ſame bed, I think, at leaſt, in the ſame room with Allen, who, upon the Sunday, perſonated the ſervant of Captain Jones; we therefore bring together, you ſee, on the Saturday, Mr. O'Coigly and Mr. O'Connor, dining at Mr. Bell's, where Mr. O'Coigly had often dined under the name of Jones; and we bring together on the Saturday night, Mr. O'Coigly, under the name of Captain Jones, with Allen, who perſonated his ſervant, the next day ſleeping in the ſame room, the lodging of Allen,

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at No. 14, Plough-court, Fetter-lane, and they ſlept in the room, which, in that houſe, had been let to Benjamin Binns, the brother of John Binns, who now is at the bar, and who aſſumed the name of Williams, and which room John Binns had occupied in the abſence of his brother Benjamin.

Gentlemen, I ſhould here ſtate to you, before I bring the parties together in the Whitſtable hoy on the Sunday, that Mr. O'Connor, who, in this tranſaction, generally went by the name of Colonel Morris, wrote or addreſſed the following letter to Mr. William Williams, at the Fountain-inn, St. Margaret's-ſtreet, Canterbury; you will ſee that it is quite clear that the parties, who went from London, expected to meet Binns at Whitſtable; that it is quite clear that Binns came to town with the intent to go with them to Whitſtable, or to go with them to Deal; but not arriving in time, they had gone off in the hoy from Tower ſtairs to Whitſtable, expecting to find him there; and I will give you an account of his journey after them preſently.—On the Saturday afternoon, at Mr. Bell's, Mr. O'Connor, after Mr. O'Coigly, under the name of Jones, had dined with him, at Mr. Bell's, deſired Mr. Bell to addreſs a letter, which he produced to him, without any addreſs upon the back of it, to Mr. William Williams, Fountain-inn, St. Margaret-ſtreet, Canterbury; Mr. Bell, at the inſtance of Mr. O'Connor, did addreſs that letter to Mr. William Williams, it was afterwards found upon Williams, that is, upon Binns, and it will be verified to you to be the ſame letter, and it is in theſe terms:

"Dear Friend,

"I ſet off to-morrow morning in a Whit-
"ſtable hoy, and hope to be at Whitſtable by night, if the wind
"is fair; I ſhall take all the parcels you ſpeak of with me,

"Your's ſincerely."

Now, Gentlemen, what do you think is the name at the bottom of this letter, which the priſoner, Mr. O'Connor, deſired Mr. Bell to addreſs for him?

"Your's ſincerely, JAMES WALLIS."

"I get your letters."

This is dated London, the 24th of February, the day preceding the Sunday on which they were to meet. You will find that the baggage, which was put on board the Whitſtable hoy, was carried from Bell's houſe to the Whitſtable hoy, by two ſervants of Mr. Bell, who, if it be neceſſary, can be called; indeed, as they have but a ſhort word to ſtate to you upon that matter, I ſhall call them. Mr. O'Connor and Leary, on Sunday morning, went from the houſe of Mr. Bell to the Whitſtable hoy, Mr. O'Coigly and Allen, under the characters of Captain Jones and his ſervant, having ſlept together in the bed of Mr. Binns, on the Saturday night, were called by the watchman, to whom they promiſed a ſmall ſum of money for calling them up early in the morning, and they went together from Evans's in Plough-court, at five in the morning, on board a ſmall brig or veſſel which lay near the Whitſtable hoy, and, upon Mr. O'Connor, and Leary his ſervant, coming on board the hoy, O'Coigly and Allen came on board alſo from the brig as Captain Jones and his ſervant, and theſe four proceeded down the river till they came to Whitſtable, in the evening of the Sunday. It will be ſtated to you what baggage they had on board; the baggage which was on board will be traced from on board to the Bear and Key inn, Whitſtable, and will be traced from thence to the houſe at Margate, where it was ſeized. You will hear the witneſſes ſpeak to the demeanour of theſe perſons, what care and anxiety they manifeſted about particular parts of this baggage; and you will hear what parts of the baggage were taken on ſhore that night, and what were not taken on ſhore till the next morning; ſome parcels, of which the priſoners ſeemed to be particularly careful, were taken on ſhore, by, I believe, Mr. O'Connor and by Mr. O'Coigly, aſſuming the names of Colonel Morris and Captain Jones, the reſt of the baggage remained on board till it was landed the next day, together with Allen and Leary the ſervants, and was ſearched in the manner I ſhall ſtate, by Mr. King, who was the land-waiter at Whitſtable. Having brought from tower ſtairs Mr. O'Connor and Mr. O'Coigly, under thoſe names, you will find that they, who, if I am rightly inſtructed, denied all knowledge of each other, upon

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the important occaſion I have before mentioned, that they went to the Bear and Key at Whitſtable together, that at the Bear and Key, as Allen and Mr. O'Coigly had ſlept together in the ſame room on Saturday night, ſo theſe two gentlemen, Mr. O'Connor and Mr. O'Coigly ſlept together in the ſame room at the Bear and Key inn, at Whitſtable, on the Sunday night; and you will have evidence that, in the courſe of that night, they were overheard counting money, and holding a converſation about that money, the particulars of which the witneſs that I ſhall call, will ſtate.

Gentlemen, when theſe four perſons got to Whitſtable, they did not find there that Mr. Binns, who went under the name of Williams, whom they expected to find there; and Williams, when he came to town, not finding them in town, immediately ſet out on board the Hoy to Graveſend. At Graveſend he applied to a perſon of the name of Aſſiter: that man procured him a horſe from an acquaintance of his, in the town of Graveſend; and he came in the courſe of that evening again to Canterbury, to the Sun Inn, kept by a perſon of the name of Nicholas Cloke: when he came to the inn at Canterbury, you will find from his converſation, which will be given in evidence to you, that his purpoſe was to have gone that night to Whitſtable from Canterbury, which was about ſix miles diſtant; but the party to whom he joined himſelf, for he there ſaw ſome of the perſons he had ſeen the preceding Friday, perſuaded him to ſtay there that evening: he did ſtay there that evening; and the next morning he left the houſe, coming back again a few hours after he had left it, in company with Mr. O'Connor, that gentleman ſtill aſſuming the name and character of Colonel Morris.

Upon the Monday morning, after Mr. O'Connor and Mr. O'Coigly had got up, and before breakfaſt, they walked out; Mr. Binns, you ſee, according to this ſtate of the fact, muſt have walked out alſo from the inn at Canterbury. I ſtate it to you as probable, as that, indeed, which one cannot but believe, though, ſtrictly ſpeaking, I cannot repreſent it as being actually proved to you, that Mr. O'Connor and Mr. O'Coigly had walked towards Canterbury: that Mr. Binns had walked

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from Canterbury towards Whitſtable; and that they had met upon the road; and I think you will have no difficulty in inferring alſo from the evidence, which I am preſently to ſtate to you, that, previous to the time, at which they had parted, it was agreed that, after certain other tranſactions ſhould have taken place, they ſhould meet again at Margate. I ſay it is probable that theſe perſons had walked from Whitſtable towards Canterbury, and that the other had walked from Canterbury towards Whitſtable, becauſe Mr. O'Coigly went back again to the Inn at Whitſtable without Mr. O'Connor, and Mr. Binns came back again to the Sun at Canterbury with Mr. O'Connor.

Gentlemen—This happened, as I have been ſtating to you, upon the Monday morning: the parties did not meet again till Tueſday afternoon; and it becomes neceſſary that I ſhould ſtate what I take to be the effect of their tranſactions on Monday afternoon and Tueſday morning: that is, of Mr. Binns and Mr. O'Connor, who were together, and the tranſactions of Allen, O'Coigly and Leary, who were left at Whitſtable. The baggage, which I before mentioned, was brought on ſhore; (and it included all Mr. O'Connor's baggage, there being a direction upon part of it to Colonel Morris) on the Monday: and it will be in evidence that one perſon paid for the paſſage of all of them: that baggage which came on ſhore on the Monday was ſearched by the Cuſtom-Houſe Officer. It was repreſented to the Cuſtom-Houſe Officer that ſome of the boxes could not be opened. Leary, I think, was the perſon who made this repreſentation: he ſaid that his maſter, Colonel Morris, was gone to ſee a friend at Dover, and had got the keys with him; and Leary mentioned that his maſter was going to the Eaſt Indies. You will hear that in a converſation which Mr. O'Coigly had with the maſter of the Inn, with reference to Colonel Morris, he repreſented that Colonel Morris was going to the Weſt Indies. They had a good deal of converſation about the means of removing this baggage to Margate: there was an idea of ſending it by water: that was fruſtrated by an apprehenſion, which was very much felt, whilſt they were going from Tower Stairs to Whitſtable, leſt

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they ſhould be, as it was called, over-hauled; that is, leaſt the baggage ſhould be ſearched. It was at length, however, agreed, that a perſon of the name of Thomſett ſhould be hired to take all that baggage in a cart from Whitſtable to Margate: and it was agreed that Captain Jones, that is, Mr. O'Coigly, that Allen as his ſervant, and that Leary, ſhould walk all the way from Whitſtable with this cart to Margate, along ſide of it, taking care of it, till it ſhould be depoſited at Margate. Accordingly, Thomſett's cart being engaged, the baggage was put into that cart. You will hear what was the demeanour of the three Priſoners, that went with the cart: and Thomſett conveyed the baggage, the Priſoners walking along with it all the way from Whitſtable to Margate, where they arrived, as I before told you, in the afternoon of the Tueſday. In the mean time, Mr. O'Connor, as Colonel Morris, and Mr. Binns, as Williams, went from Canterbury to Deal without any baggage: when they got to Deal, you will hear, from the Witneſſes called from that place, that the converſation about going to Fluſhing and to Calais and other places, was much of the ſame nature as that I have ſtated to you Mr. Binns had held, when he was there upon the preceding Saturday. It turned out that the perſon who, it was ſuppoſed, would have had his boat ready in the beginning of that week, had not his boat ready the beginning of that week: but there was an expectation that, in the courſe of two or three days, the boat might be ſupplied; and a perſon wrote down in pencil a direction to a man of the name of Lancelot Hayman, to whom the parties ſhould apply, after they ſhould have come a ſecond time from Margate to Deal. That direction in pencil, it will be proved, was found in the purſe of Mr. O'Connor, at Margate, when he was apprehended. In what manner Mr. O'Connor and Mr. Binns went from Deal to Margate I am unable to ſtate to you; but in point of fact, as I before told you, they did arrive at Margate within a quarter or half an hour after Mr. O'Coigly, Allen, and Leary, had arrived there: and I think, under theſe circumſtances, I am fully juſtified in having repreſented to you that they muſt have underſtood, when they parted on the Monday morning, that they were to meet together at Margate.

Gentlemen,

Gentlemen, having now traced all theſe parties from London through their different tranſactions till they came together at Margate, I do not repeat to you the tranſactions of the Tueſday evening at Margate, or the tranſactions of the Wedneſday morning at Margate, nor do I ſtate to you again the circumſtances under which they were all apprehended: but I take leave, in a ſhort word, to deſire you to recollect what the ſubſtance of that paper was, which I have read to you, and to recollect that, if I am rightly inſtructed, I ſhall prove to you that theſe perſons, being thus united in one common deſign from the Saturday morning, I may ſay from the Wedneſday morning preceding, till the Wedneſday morning following, when they were apprehended, thought proper to be perfectly ignorant of each other, to be perfectly ignorant of the contents of the baggage, and the pocket book, and every thing that had any relation to any thing in which they had been concerned, or to any of thoſe tranſactions in which they had been engaged, and to repreſent themſelves as perfect ſtrangers to each other, though they had been living with this cloſeneſs of intimacy during the period, the tranſactions of which I have been repreſenting to you.

With reſpect to the priſoner Mr. O'Connor, it is now my duty to ſtate to you the ſubſtance of two papers, which, as it appears to me, will call for your moſt particular attention—that any perſon who had that pocket book in his poſſeſſion, containing that paper, muſt feel a great anxiety to ſhake off all knowledge of that pocket-book, and all connexion with its contents, is a matter that, I think, cannot ſurprize you; or any body who hears me. When I now ſtate to you what other paper was found in one of the boxes, which, I believe, will be proved to you beyond all doubt to belong to Mr. O'Connor, and when I ſtate to you the contents of a letter in the hand-writing of Mr. O'Connor, which has been found in the poſſeſſion of Lord Edward Fitzgerald, and which will be produced here to day—I am ſorry to ſay it, Gentlemen, but it is my bounden duty to ſay it, that, unleſs ſome account is given of this matter, God grant they may be able to give an account of it, other than in my anxious view of this caſe I

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can at preſent form any expectation of hearing, I have not a conception, even if the evidence I have already ſtated were not ſufficient in law to connect Mr. O'Connor with the deſign of thoſe who had this paper in their poſſeſſion, how it will be poſsible to deny the intention of that gentleman to go to France for the purpoſes expreſſed in this paper—I will firſt read the letter found in the poſſeſsion of my Lord Edward Fitzgerald, and you will ſee clearly from the contents of this letter, that it was written about the ſame time that the tranſactions I have been mentioning took place.

" My dear friend—I have had a Letter written to you theſe " ten days, and have not had an opportunity of ſending it to " you, you cannot conceive how it has vexed me not to be " able to find a good, or indeed any way of getting Maxwell " off."—It will be incumbent upon the priſoner to explain this letter if he can—" he has been moſt active to try and " get away from his creditors, but they ſo watch him, and " this embargo by the enemy makes it moſt difficult, though " I think he will be off in three days from this.—It's ſaid that " Lord Fitz-William is going over to Ireland." The paſſage that I am about to read, relates to what we have heard a great deal of—Catholic emancipation, and you will ſee how friendly the writer of this letter is to the idea of Catholic emancipation; he ſays, that—" great hopes are entertained of " ſeparating the Catholics from the union. This will be your " and every honeſt man's buſineſs to prevent,"—" and though " a few of the old Committee patriots ſhould attempt it, the " people are moſt honeſt. I received both your letters, the one " to Debretts, and the one by the young men. I ſhall do all " I can for them," that is for the young men, " and hope " with effect in three days. If that fails, I will make it a " point with Maxwell that he goes by Hamburgh." not that he goes *to* Hamburgh, but that he goes *by the way* of Hamburgh, and he will make it a point with Maxwell that he goes by Hamburgh—in a given caſe—that is if all that he can do for the young men in three days, ſhall fail, then he is to make it a point with Maxwell to go by Hamburgh, " in- " deed he is in the greateſt impatience to be off. The man

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" of conſideration told me he heard the Government here had " intercepted a diſpatch from France for Ireland, which pro- " miſed great aſſiſtance: they are here in great conſterna- " tion."—this paſſage tallies very much with ſome parts of the addreſs I read,—" the money and their commerce are " very low. The black terrier and his little brother, are " but ſorry curs: the latter has become a Land-Broker, and, if " I am rightly informed, has found the little Prieſt, and the " Sugar Baker, and many others have ſent him their money " to lay out for them, and thus to have their Agent, " they have been at work, Chevalier was the perſon who " wrote to my friend."—Gentlemen, I muſt ſubmit it to you whether this paſſage alſo does not connect itſelf with the addreſs, which I have read to you—as to a certain ſet of men who are ſuppoſed to have fallen into contempt " Chevalier " was the perſon who wrote to my friend to have nothing " to do with Nicholſon or her ſet, for that they had fallen " into contempt from the appearance they cut. I ſend two " copies of the pamphlet, but they muſt not be let out of " the room you and Pamela read them in, until you hear " from me, as otherwiſe I ſhould be in limbo: there is not one " out here, nor will there until I can do it in ſafety; you can " have an edition printed in Ireland. I ſhall ſend you an " hundred copies: for the inſtant, they are to be ſold at " three ſhillings and ſix-pence, and of courſe not to be given " to any that cannot be depended on to avoid proſecution." Gentlemen, I call your attention, and that of the Court moſt particularly to the next paſſage—" the inſtant I get to Wil- " liams you ſhall hear from me, I mean to be as active as I " can."

When I firſt read this over, I thought the word *Williams* meant Binns, but, in a part of Mr. O'Connor's razor caſe was found a very curious paper, a copy of which I have now in my hand, the original of which will be produced to you. It is obvious from the text and terms of this letter that it is written in what ſecret correſpondents call a cypher—you have the Black Terrier; you have—the man of conſideration—you have Nicholſon and her ſet—the Sugar Baker—the Land Broker;

Broker; and various phrafes, which you do not underſtand, but you have an explanation of that particular expreſſion, "The in-" ſtant I get to Williams you ſhall hear from me," for the paper that I am going to read appears to me to be demonſtration that *Williams*, meant *France*, and that *Paris* was to be the place of this Gentleman's reſidence.—The firſt word in it is France—the next is Spain: the third word in it is Holland; and then it goes through a great variety of the landing places of Ireland, and ſome of England, which you will hear read to you.—In one column it contains the names of different countries and perſons, and in an oppoſite column it gives the names of the different countries and perſons, as they are to be repreſented in the correſpondence, which was to take place. The firſt word is *France*: the correſpondent word is *Williams*—towards the cloſe of the paper is the word *Paris*—the correſpondent term to Paris is *this place*.

Now, when this letter to my Lord Edward Fitzgerald informs him that, when the writer gets to Williams, he ſhould hear from him, that he would be as active as he can, and when this paper informs you that Williams means France, and that Paris means this place (Paris can only mean this place when a perſon is uſing the words who is writing from Paris), is it poſſible, Gentlemen, if theſe circumſtances ſhould be made out to your ſatisfaction, if it ſhall alſo be proved, as it will, if I am rightly inſtructed (I ſtate only if I am rightly inſtructed, for I can only ſtate to you the effect of evidence, as it is repreſented to me), if it ſhall be proved that Mr. O'Connor had the ſort of connexion in this tranſaction of O'Coigly's, which I have ſtated to you he had; if this letter proves to you that he was going to France; if the letter addreſſed to the Executive Directory proves, from the very contents of it, that it was to go to France; if I prove to you that Mr. O'Connor is corresponding with a man who is hiring boats in different parts of the county of Kent, to go to France; if I prove that he is not only corresponding with that man, but if I prove alſo, as I ſhall to demonſtration, that he was corresponding in writing with Mr. O'Coigly, who had the addreſs in his pocket-book; if all this ſhall be proved, is it poſſible that any ſuch caſe as

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this can be attempted in defence, namely, that although it is beyond diſpute that ſome perſons muſt be guilty in this caſe, yet that Mr. O'Connor cannot be connected with Mr. O'Coigly's intention? I ſay beyond diſpute that ſome perſons muſt be guilty, becauſe, when I have proved the contents of the paper in that pocket-book, and that it was Mr. O'Coigly's pocket-book, there can be no doubt of that fact; and that under theſe circumſtances you ought to infer, that Mr. O'Connor was privy to the deſign of ſending this paper to France, as well as the others who were acting with him, I take to be a propoſition which I am fully warranted, by every principle of law, and rule of evidence, to ſubmit to your conſideration.

The contents of the baggage will be particularly ſtated to you; you will find Colonel Morris's and Captain Jones's military dreſſes, you will find in two boxes a conſiderable quantity of money, principally louis d'ors, part of it guineas, but to the amount in monies ſterling of about £.900 or a £.1000. Gentlemen, another queſtion which you will have to addreſs to your conſciences is this, was this property of ſo little worth that it ſhould be abandoned by theſe gentlemen, by one and all of them, unleſs they had been conſcious that, together with that property, ſomething elſe was to be found, the production of which, as theirs, was dangerous?

The contents too of the money box in particular will prove, as ſtrongly as any thing, the connection between Mr. O'Coigly and Mr. O'Connor. In the firſt place I think I ſhall prove to you, that every ſhilling of that money, except about £.97 was Mr. O'Connor's. If I prove to you that it was all Mr. O'Connor's money but £.97, who was to ſupply the 300 guineas that were to be depoſited in the Canterbury bank? who was to ſupply the ſum of money, larger than that ſum of £.97, which was to be paid for the trip to the Continent? But, beſides the fact of their counting the money in the night, when they ſlept in the ſame room at Whitſtable, unleſs I am miſinſtructed, I ſhall alſo prove this; indeed as to this I think I cannot be miſinſtructed, that, when the box was opened, and the parcels were untied, in one of them was a ſum of about 97 guineas, I think, together with a paper, on which was written

theſe words, "this is Captain Jones's money." Now I aſk, if it be true that Mr. O'Connor and Mr. O'Coigly had not been acquainted with each other, how did it happen that there came into the money-box of Mr. O'Connor this ſum of £.97, together with a label, denoting that that ſum of money was Captain Jones's.

Gentlemen, I will now ſtate to you ſhortly the contents of ſome of the other papers which were found upon ſome of theſe parties; though I ſhould mention to you firſt, with a view that I may recite altogether the contents of the papers that were found, that the priſoner Binns had left his box behind him at Evans's, No. 14, in Plough-Court, and that a perſon who knew Binns, ſaw him with the other priſoners brought to town, and feeling an anxiety about the contents of that box, removed it from Evans's, and kept it in his own cuſtody, where it was traced and was found. In that box was found a paper which I ſhall produce to you, and the fact of its being there found connects Mr. Binns and Mr. O'Coigly very ſtrongly, as well as many other circumſtances in the caſe; there was found in that box a paper of no leſs conſequence than the Paſs with which Mr. O'Coigly had been travelling in France, and in other parts of the Continent, in the autumn of 1797. That Paſs will be identified beyond all doubt, becauſe there is his own name upon it, in his own hand-writing, connecting him with the adminiſtration of the different countries through which he paſſed, Paris among the reſt, he giving in his name in his own ſignature, where it ſtands upon that paper. This is not an immaterial circumſtance, becauſe, though it ſignifies not an iota, as it appears to me in this caſe, which particular individual was to be the bearer of this paper, yet you will ſee that it is very material to prove by this paper that O'Coigly had before been travelling in France—the addreſs to the Executive Directory, which I have read to you, ſtating expreſsly, "We "ſend it by the perſon who was the bearer of our former "paper."

There are two other papers which have more immediate reference to Mr. O'Coigly, in his hand-writing, which will alſo be produced to you; the one is a letter which he gave to

Perkins, of the Bear and Key at Whitſtable, to be put into the poſt-office at Dover, and the other is a letter which was found in his poſſeſſion, and which I ſtate to you as letters extremely myſterious in their contents, and which I apprehend, before we get to the cloſe of this caſe, it will be incumbent upon him to explain. I will alſo ſhew that Mr. O'Coigly has a connection with a part of this country called Mancheſter, for that appears upon the face of theſe letters; I ſhall ſay a word or two more upon that ſubject preſently. Theſe letters are dated, the one the 14th of February, 1798, the other the 26th of February, 1798, and they will both be proved to be his hand-writing; that of the 14th, ſigned William Parkinſon, is in the following words: "Mancheſter, February 14th, 1798. "Sir, notwithſtanding the ſevere prohibition enforced by the "French againſt our merchandize, I am reſolved to carry on "the trade at all events." Perhaps, Gentlemen, I may as well tell you at preſent, as at any other period, that it appears, from the papers found in Mr. O'Coigly's pocket, that his profeſſion is that of a Roman Catholic prieſt: "I am reſolved to "carry on the trade at all events; hence I ſend a confidential "friend to arrange the neceſſary preliminaries with you, and "take proper meaſures to elude the force of that law. If you "judge it neceſſary that he ſhould remain on your ſide the "water, to aſſiſt in receiving the goods, be it ſo. You will "procure him the paſſports or protections neceſſary in your "country. Let me know, as ſoon as poſſible, whether we "may venture to ſend goods into the French territories by "land, I think it highly probable, if ſo, we ſhall have a great "ſhare of the trade to ourſelves. Your's ſincerely, William "Parkinſon." Addreſſed, "Mynheer George Frederick Van-"der Hoop, Speigel-Straet, Rotterdam."

The other letter is in theſe terms, it was written at Whitſtable upon February the 26th, and delivered to the landlord: "Dear Sir, Happening by accident to be here, and hearing of "a general embargo laid on all veſſels in the Dutch ports, "and a ſeizure of our merchandize there, I wiſh to be in-"formed exactly by you, the more ſo as I am obliged to at "tend my duty,"—obſerve, he is a trader in the laſt letter,—

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" as I am obliged to attend my duty as a military man at pre-
" ſent, and my partner has a quantity of goods juſt ready to
" ſhip and conſign to you; this will be ſent over by a careful
" hand, and the ſooner you anſwer it the better for both par-
" ties, becauſe, if your anſwer ſhould be favourable, we ſhall
" ſhip, perhaps, a treble quantity. Direct, in all haſte, to
" Parkinſon and Company, High-ſtreet, Mancheſter. We
" are very uneaſy about the ſafety of the laſt parcel we ſent
" over; loſe no time, I pray you; in the mean while I am
" your's, ſincerely, Edward Wallace." His name is Parkin-
ſon in the other letter, Edward Wallace in this. The addreſs
of this letter is, " To Mynheer Van Solomon Straet Van
" Hacolem, Amſterdam."

Gentlemen, I ſhould have mentioned to you, which I now do in a word, for fear I ſhould forget it, that a bargain had been made with a perſon of the name of Kerby, who will be called to you, to take all the baggage from Margate to Deal. I mention that as a circumſtance of evidence, to ſhew that it was the intention of the perſons removing their baggage from Margate to Deal, to go abroad from Deal. Without entering particularly into the contents of all the other different papers which you will find were in the pockets of theſe reſpective perſons, and which are in their contents extremely ſhort, I think I may venture to ſtate to you, that there is not one but which will afford important evidence of the truth of this caſe, from the beginning to the end of it, againſt theſe priſoners.

Gentlemen, I take leave to ſtate again, under their Lord-ſhips correction, that where perſons are acting together in a conſpiracy, when it is once ſatisfactorily proved that they have all been acting in ſome of the tranſactions which form the circumſtances of that conſpiracy, the act of each of them is evidence againſt all. I take it alſo to be perfectly clear, that if the evidence ariſing out of the acts of all of them, or the evidence ariſing out of the acts of each of them, as applied to all of them, ſhall make out the fact of the conſpiracy againſt all as laid in the indictment, that it is your duty to find every one of them guilty. I take it alſo to be clear, that if it ſhould, in the reſult, be your opinion that, with reſpect to any one or

more of these prisoners, the guilt is not brought home to him or them, the innocence of any one or more of them is no reason why you should acquit the rest.

Gentlemen, it may be, and certainly must be the fact, that in this general opening I have omitted a great many circumstances material to be laid before you. In the course of giving the evidence, however, some short explanation will be offered, and such only as ought to be given, from this place I mean, of the contents of each and every paper which will be read in evidence before you. With respect to any circumstances, the detail of which I may have omitted, and particularly some circumstances which may be referable to the papers of Mr. O'Coigly, as proving him to have had a good deal of transaction at Manchester, I do not go through the particulars of them now, but I shall lay them before you in the order in which I think they will be most intelligible. When you have heard this evidence it will be your duty, the duty which you are sworn to discharge, to make a true deliverance, according to the evidence, between the prisoners at the bar and the public. I am persuaded, Gentlemen, that, speaking to you in a British Court of Justice, you would treat with horror and indignation any man who could venture to press for your verdict, if your consciences are not perfectly satisfied that the prisoners are guilty. On the other hand, it is incumbent upon me to put you in mind, that if you do owe a great duty to the prisoners, you owe also a great duty to the public. I question not but that you will discharge that duty satisfactorily to your consciences, to your country, and to your God.

EVIDENCE FOR THE CROWN.

John Revett. (Sworn.)

Examined by Mr. Solicitor-General.

Q. YOU are one of the Officers belonging to Bow-ſtreet?

A. Yes.

Q. Did you apprehend all the priſoners at the bar?

A. I did.

Q. When?

A. On the 28th of February.

Q. Where?

A. At the King's-Head at Margate.

Q. Who was with you when you apprehended them?

A. Fugion, and four light-horſemen went with us; there were ſome other people, but I do not know their names.

Q. Who did you apprehend firſt?

A. I firſt went into the parlour on the left-hand ſide; the King's-Head is kept by one Mrs. Crickett. In the parlour on the left-hand ſide I found the priſoners Leary and Allen, and all the baggage which is now produced in Court, except one great-coat which has a black collar to it. Proceeding to go up ſtairs I met the priſoner Binns at the bottom of the ſtairs, I took him and put him into the parlour with the other two; then I proceeded up one pair of ſtairs, and in a room almoſt facing the ſtair-caſe I found the priſoner Quigley ſitting with tea-things before him.

Q. Was that a bed-room?

A. No, a ſitting-room; I ſecured him, and I ſaw Fugion take a dagger out of his left-hand inſide pocket; I ſearched him, and found ſeveral bits of paper in his pockets, which I afterwards marked; as ſoon as I had ſearched Quigley, Mr. O'Connor came into the room, I aſked him, pray, Sir, what is your name? or words to that effect; he refuſed to give me

any name; he aſked me who I was, and what I was; I told him I was an officer; he replied what officer; I ſaid an officer of Bow-ſtreet. I ſearched Mr. O'Connor, there were no papers found upon him excepting a ſmall piece of paper written with a pencil, which was in his purſe, it was a memorandum of the name of a perſon at Deal.

Q. Did you find any thing in the room in which you apprehended Quigley?

A. There was a great-coat upon a chair, on the left-hand ſide as I went into the room. Quigley begged to know whether he might not have his breakfaſt; I told him yes; after he had breakfaſted he ſaid he was ready, and got up, and put on a blue ſpencer great-coat. I then took him down into the parlour below, where this luggage was; then I went up again, and ſtaid ſome little time in the room, and then Mr. O'Connor came down with me into the parlour; whether he breakfaſted in the room or not I cannot exactly ſay; I aſked them who the luggage belonged to.

Q. Were they altogether in the parlour then?

A. Yes, the direction to ſome of them was Colonel Morris; they refuſed to give any account; none of them would give any account of the luggage; they refuſed to own any of the luggage; I went up ſtairs; and in a bed-room there was a ſmall cloak bag; I aſked Mr. O'Connor if it belonged to him; he would not own it; he ſaid probably I might have put ſomething into it; it was unbuckled as if ſomething had been taken out.

Q. What bed-room did you find that in?

A. A bed-room on the left-hand ſide of the ſtaircaſe; I then looked into the ſitting-room where Mr. O'Connor and Quigley had been, and found that dark great-coat with a black collar; I brought it down into the parlour where the five priſoners were; I aſked if the great-coat belonged to either of them, and particularly Mr. O'Connor and Quigley, they ſaid no. I then took a pocket-book, and ſome other things out of the pocket; every thing that was in the great-coat pocket was taken out and tied up in a handkerchief, and I put it into my ſide-pocket; we then took the priſoners away, and the luggage, to the hotel;

hotel; after we had done ſo, Fugion, and a gentleman of the name of Twopeny went into another room, I undid the handkerchief, and Mr. Twopeny opened the pocket-book, and pulled a paper out of the pocket-book, this is the pocket-book, (producing it.)

Mr. Juſtice Buller. Who was in the room at this time?

A. Twopeny, Fugion the officer, and myſelf.

Mr. Solicitor General. Did you find any thing elſe?

A. There were ſome more papers in the pocket-book, I marked them all, and in the pocket-book there was a ſilver ſtock-buckle.

Q. Look at theſe papers?

A. This paper, No. 1, I marked at Bow-ſtreet; No. 2, 5, 6, 7, and 8, I marked at the Secretary of State's office.

Mr. Juſtice Buller. Had they ever been out of your poſſeſſion, from the time you took them, till you marked them?

A. No.

Q. Did you find any ſtock?

A. In that black portmanteau that Mr. Fivey owned, when he got to Bow-ſtreet, there were ſome ſtocks.

Mr. Juſtice Buller. You did not notice them till you got to Bow-ſtreet?

A. The things were not opened before.

Mr. Solicitor General. Did you take any papers from the perſon of O'Coigly?

A. Yes, and which I marked alſo.

Q. Look at theſe papers?

A. Theſe are the papers, they are marked Fivey, No. 1; Fivey, No. 2; Fivey, No. 3; Fivey, No. 4; Fivey, No. 5; Fivey, No. 8; this I believe to be the paper taken out of Mr. O'Connor's purſe, Mr. Twopeny received it at Margate, I received it from him.

Mr. Juſtice Buller. Then ſay nothing about that.

Mr. Solicitor General. You gave the paper, when you took it out of the purſe, to Mr. Twopeny.

A. Yes, I did.

Q. What did you do with the priſoners?

A. We brought them to Bow-ſtreet.

Q. Were the things examined there?

A. Yes; the things were all examined at Bow-ſtreet.

Q. Were the mahogany boxes examined there?

A. No; all the boxes, excepting the mahogany boxes, were examined at Bow-ſtreet.

Q. Where were the mahogany boxes examined?

A. At the Secretary of States Office; I was preſent when that ſmall mahogany box, which was inſide that green box, was opened, it contained a quantity of gold.

Q. Had it been opened till you ſaw it there?

A. No; a ſmith was ſent for who broke it open at the Secretary of States Office; the flat box was opened, but I was not preſent when it was opened.

Q. Look at that paper (the cypher) has it your name upon it?

A. It has; I was preſent when Fugion took it out of this razor caſe.

Q. Was any thing elſe taken out of this little portmanteau that belonged to Mr. O'Connor?

A. There were ſome ſilk ſtockings taken out; Fugion can give a better account of that than I.

Q. Is this the ſmall mahogany box that you ſaw opened at the Secretary of States Office?

A. It is; I put my name upon it.

John Revett,

Croſs-Examined by Mr. Plumer.

Q. I underſtand you are a Bow-ſtreet runner?

A. Yes.

Q. How long have you been in that ſort of employment?

A. About three years.

Q. What time in the morning was it when you arreſted theſe people?

A. About nine or ten o'clock.

Q. After you had taken the papers in the morning, did you at that place take any account of them?

A. I did not mark them there certainly.

Q. Did you take any liſt or inventory of them?

A. I

A. I did not.

Q. Did any body elſe in your preſence?

A. No.

Q. Were they marked by you, or by any body elſe while you were at Margate?

A. They were not.

Q. Were they ſealed up by you or by any body elſe?

A. They were not.

Q. Did you take them before any Magiſtrate to have them examined by him, at Margate?

A. No.

Q. Was there any Magiſtrate at Margate?

A. I do not know.

Q. Do you recollect being deſired to ſend for a Magiſtrate, and have the papers noted and inventoried at the time, in order that there might be no miſtake about what papers there were?

A. Probably it might be ſo.

Q. Was that before or after the great coat was found?

A. After.

Q. You ſay you firſt found Quigley in a room where there were ſome tea things?

A. Yes.

Q. Then you went down with him leaving nobody in that room?

A. I left Mr. O'Connor there and two ſoldiers.

Q. When you went down with Mr. Quigley you left Mr. O'Connor there and two ſoldiers?

A. Yes.

Q. How long was it before you came back again?

A. Not more than five minutes, I ſuppoſe.

Q. You went into another room you ſaid then with Mr. O'Connor?

A. No; I went into a bed room by myſelf.

Q. That was before you returned into this room where the tea things were?

A. I believe it was.

Q. When you found the great coat, you ſaid you took it down ſtairs, and aſked them whether it belonged to them?

A. I

A. I did.

Q. Had you at that time examined whether there was anything in the great coat pocket?

A. I had not.

Q. Where was it that you firſt examined the great coat?

A. In the parlour below.

Q. Who was preſent when you firſt examined it?

A. The priſoners were all in the room, and Fugion.

Q. Who did you find in the room up ſtairs, where you found this great coat, when you took the great coat down ſtairs?

A. I do not think any body was in the room at that time I had ſeen it in the room.

Q. But you had left the room, and when you came back into the room you found the door open and nobody then was in the room, but the great coat was lying upon the chair?

A. Juſt ſo.

Q. This was a public inn at Margate?

A. Yes.

Q. At ten o'clock in the morning?

A. Between nine and ten.

Q. There were a great many people I believe in the houſe at that time?

A. There were ſoon after we went in.

Q. Do you mean to ſay you took the papers out of the pocket-book in the preſence of the priſoners?

A. No they were not preſent.

Q. Then you took a pocket-book out of the great coat pocket, and other things?

A. Yes; I took the papers out and tied them up in a handkerchief, there were no papers examined in the preſence of the priſoners.

Q. Did you keep the papers in your poſſeſſion after they were taken out of the great coat pocket?

A. I put them in my inſide pocket.

Q. You did not examine any of them?

A. Yes; one that Mr. Twopeny ſhewed me.

Q. You did not examine them in the preſence of the priſoners?

A. No.

Q. Who

Q. Who were preſent when you examined them?

A. Twopeny, Fugion, and myſelf.

Q. What is Mr. Twopeny?

A. An attorney, I believe, at Rocheſter.

Q. I deſire you will recollect yourſelf a little; when you got into that room and examined theſe things by yourſelves, was not that paper ſeparate from the pocket-book?

A. No.

Q. Recollect yourſelf, and ſay whether you can be quite clear upon that ſubject?

A. I can; the paper was not in the pocket of the pocket-book, but in the middle of the pocket-book, in this manner (deſcribing it) with ſome more papers.

Q. Did you read this paper that day?

A. Mr. Twopeny read it; I did not.

Q. Did you hear it read?

A. I heard part of it read.

Q. When was the firſt time that you marked any of the papers?

A. The firſt paper I marked was when I arrived at Bow-ſtreet.

Q. What day was that?

A. Upon the firſt of March, I think.

Q. Are you quite ſure as to the day you marked them?

A. Yes; I am.

Q. What time of the day?

A. Four o'clock in the afternoon.

Q. I believe you will recollect, that before the papers were marked, ſome of them were miſſing for ſometime at Bow-ſtreet, and there was an enquiry about them and a ſearch after them?

A. I do not recollect ſuch a circumſtance.

Q. In whoſe poſſeſſion were thoſe papers from the time they were taken at Margate till they were marked at Bow-ſtreet?

A. The next day, the ſecond, they were ſent down to the Privy Council.

Q. Did the papers all of them remain in your poſſeſſion?

A. Yes; all of them remained in my poſſeſſion till I had marked them all.

Q. Where

Q. Where did you keep them?

A. I took them home with me that afternoon, and the next morning they were marked.

Q. Where did you put them?

A. In my drawer at home, where I keep papers?

Q. Was it locked?

A. Yes.

Q. All the time?

A. Yes, till the next morning; I always keep my papers locked.

Q. Do you remember whether it was locked or not?

A. Yes; it was.

Q. Had you read or examined any of the papers ſo as to be able to ſwear to the contents of any one before that time?

A. No; I had not.

Q. Do you recollect your being deſired to ſeal up the luggage?

A. Yes; I was deſired by the priſoners.

Q. At Margate?

A. Yes.

Q. That was not done, I believe?

A. It was not.

John Revett,

Croſs-Examined by Mr. Dallas.

Q. You arreſted Mr. Binns upon the ſtair caſe?

A. He was by the foot of the ſtairs.

Q. You were the perſon who arreſted him?

A. I and Fugion.

Q. Was Fugion with you at that time?

A. He was.

Q. Was that before or after the arreſt of the other perſons?

A. I arreſted Binns before Mr. O'Connor and Fivey were arreſted—Leary and Allen were below ſtairs arreſted firſt.

Mr. Solicitor General. Did you ſee the great coat when you firſt went into the room?

A. Yes.

Mr. Ferguſſon. Did you ſearch Allen?

A. No; I did not.

Mr. So-

Mr. Solicitor General. Was the paper you marked at Bow-ſtreet, marked before or after you put it into your drawer?

A. Before I put it into my drawer.

Edward Fugion. (Sworn.)

Examined by Mr. Garrow.

Q. I believe you are one of the conſtables attending the public office in Bow-ſtreet?

A. Yes.

Q. Did you aſſiſt the firſt witneſs in apprehending the priſoners?

A. Yes.

Q. State under what circumſtances they were apprehended?

A. On the 28th of February we went to Margate; we went to Mrs. Crickett's, at the ſign of the King's Head, in High-ſtreet; when we went into the houſe Leary and Allen were in the parlour on the left hand.

Q. Thoſe were the firſt you ſaw?

A. Yes; Binns we met coming down ſtairs, we went to Mrs. Crickett and aſked her——

Q. Do not tell us any thing that was ſaid to you, excepting in the preſence of ſome of the priſoners.

A. We went up ſtairs; the priſoner, Quigley, was in a room ſitting down to breakfaſt.

Q. Was anybody elſe in the room at that time?

A. I do not recollect that there was; I laid hold of Quigley, and ſearched him, and pulled out this dagger (producing it) from his left-hand coat pocket.

Q. Was it in that ſheath?

A. Yes; leaving him in cuſtody of Revett and the light horſemen, I went down ſtairs into the parlour to the other three priſoners; I believe I ſearched Binns before I went up, I found ſome papers and a pair of piſtols in his pocket.

Q. Were they loaded then?

A. I believe they were, but am not poſitive.

Q. What is the book you have in your hand?

A. I found this in Binns's pocket; I marked it Binns, E. F.

Q. Look at this paper; where did you find that?

A. In

A. In Binns's pocket; I marked that likewiſe Binns, E. F.

Q. You went up ſtairs?

A. Yes, and came down again; I aſked the three priſoners, that were in the parlour, Binns, Leary, and Allen, whoſe was all that luggage? they would not make any anſwer about it, or tell their names.

Q. Did they refuſe, or did they only not ſay anything?

A. They ſaid they ſhould not ſay anything, or ſhould not anſwer any queſtions; then Revett brought Mr. O'Connor down ſtairs, we got a cart and put the luggage in, and took them and the luggage to the hotel in Margate.

Q. Before you took them to the hotel did you ſee anything of a great coat?

A. I ſaw a great coat up ſtairs, in the room where Quigley was ſitting, when I firſt went up ſtairs.

Q. Where did you ſee that great coat, after you had ſecured the priſoners?

A. I ſaw it when Revett brought it down ſtairs with him, when he came down with Mr. O'Connor.

Q. By this time all the priſoners were aſſembled there together?

A. Yes; they were aſked who the great coat belonged to? nobody made any anſwer.

Q. Did they make any anſwer, or remain ſilent?

A. I believe they remained ſilent?

Q. Did you ſee any thing taken from the great coat?

A. I ſaw a pocket book.

Q. Should you know that pocket-book again?—Is this it? (ſhewing a pocket-book to the witneſs.)

A. I did not mark it; it was a pocket-book of that appearance; I believe that to be it.

Q. Who took that pocket-book out?

A. Revett did; and tied that and ſome other things he took out up in a handkerchief, and put it in his ſide pocket, we then took the priſoners to the hotel at Margate.

Q. Did you afterwards ſee Revett produce that handkerchief, with the contents, to any body?

A. Yes, to Mr. Twopeny.

Q. Did

Q. Did you ſee the handkerchief opened?

A. I did.

Q. Did you ſee anybody take any paper from it and read it?

A. Mr. Twopeny did.

Q. Did you ſee him take that paper out of the pocket-book, which you had ſeen Revett take out of the great coat pocket?

A. I did.

Q. Did you hear Mr. Twopeny read it?

A. I did; and read it myſelf afterwards.

Q. What was done with it after it had been ſo read?

A. It was returned to Revett again, and put into the ſame pocket book, and delivered into Revett's care.

Q. When did you next ſee that pocket-book and the paper again?

A. The next day, Thurſday, March the 1ſt, at Bow-ſtreet.

Q. Did you mark that paper?

A. I did.

Q. Can you take upon yourſelf to ſay that the paper which you marked at Bow-ſtreet, and which you ſaw in Twopeny's hand and read, was the ſame you ſaw taken out of the pocket-book, at Margate?

A. I am poſitive of it; this is the paper. (the Addreſs to the Executive Directory of France).

Q. Look at theſe two papers?

A. Thoſe two papers I found upon Binns, in his coat pocket, at Mrs. Crickett's, at Margate.

Mr. Juſtice Buller. What are they?

Mr. Garrow. One is a map of the County of Kent; the other appears to be a cypher—the word "Claris," bookſeller, Canterbury, at the bottom, will identify it.

Q. After you had ſecured the priſoners and the luggage in this manner, what did you do with them?

A. We brought them to Canterbury, where we ſtopped all night; the next morning we proceeded to London, and went to Bow-ſtreet.

Q. Did you keep all theſe things in your cuſtody till you had marked them?

A. Yes.

Q. Did you ſee the paper, which I have ſhewn you, which has your mark upon it, at Bow-ſtreet?

A. Yes; I did.

Q. Did you then mark it?

A. I did.

Q. Were you preſent afterwards when any of the luggage which had been found at Margate was opened at the Duke of Portland's office?

A. I was preſent when that ſmall mahogany box was opened.

Q. Was it broke open?

A. It was.

Q. Are you ſure that was part of the luggage you found at Margate?

A. Yes, I am.

Q. Where did you find it?

A. In the lower parlour on the left hand where I found the two firſt priſoners.

Q. Did you ſee any razor caſe opened at the Duke of Portland's office?

A. I did not.

Q. Did you mark any paper?

A. Yes, that paper which I found in the razor caſe afterwards.

Q. Where had this razor caſe been found?

A. I took it out of the cloak bag.

Q. Where did you find the cloak bag at Margate?

A. I did not find it.

Q. Did you ſee it found?

A. I did not.

Q. Have you ſince taken any articles of wearing apparel out of this?

A. Yes, I took ſome ſilk ſtockings out, which I took to the Tower, to Mr. O'Connor.

Q. Did you ſee Mr. O'Connor?

A. I did.

Q. Did he receive thoſe ſilk ſtockings?

A. He did.

Q. By whoſe deſire did you take thoſe ſilk ſtockings out of this portmanteau?

A. I

A. I had an order to ſend him ſome things, I believe there had been ſome things taken out before.

Mr. Juſtice Buller. Who told you to take out thoſe ſtockings?

A. I had an order from the Duke of Portland to take Mr. O'Connor ſome ſilk ſtockings and linen, and things; I went to the Governor, he introduced me to Mr. O'Connor with the things, and I received a receipt I think from him.

Mr. Juſtice Buller. Did you tell him who you came from?

A. Yes, I told him I had brought the things he had written for; he received them and gave me a receipt for them.

Mr. Garrow. Look at that great coat; is that the coat you ſaw when you firſt went into the room at Margate where Mr. Fivey was?

A. I ſaw a coat, but do not know what the colour was.

Q. Is that gentleman the perſon you have been ſpeaking of as Mr. O'Connor?

A. Yes.

Q. Do you ſee the perſon there you have called by the name of Quigley?

A. Yes.

Q. Look at the other perſons, Binns, Leary, and Allen.

A. Thoſe are the perſons I have been ſpeaking of.

Edward Fugion,

Croſs-Examined by Mr. Dallas.

Q. What hour was it when you went to the King's Head?

A. About eight in the morning.

Q. Who was with you at that time?

A. Revett, two or three light horſe men, a quarter-maſter of light horſe, a cuſtom-houſe officer, Mr. Sanderſon, and another perſon or two.

Q. All theſe perſons went with you to the King's Head?

A. They did.

Q. Who went into the houſe beſides you and Revett?

A. We took Mr. Sanderſon in with us, I think, to identify the perſons he had ſeen.

Q. Recollect whether any other perſons went into the houſe with you and Revett beſides Mr. Sanderſon.

A. Yes, ſeveral of the light horſe went in, and a quarter-maſter of light horſe.

Q. Do you know the name of that quarter-maſter?

A. No.

Q. Or the names of the light horſe men?

A. No, I do not.

Q. When you went into the houſe you went into the parlour on the left hand, where you found Leary and Allen?

A. We did.

Q. Did you go alone into that room, or who went with you?

A. There certainly were ſeveral perſons went with me.

Q. Was Revett one of the perſons who went with you into that room?

A. I believe he was.

Q. Will you take upon yourſelf to ſwear it?

A. I cannot.

Q. Endeavour to recollect whether you can or cannot?

A. I really believe that he did, but I cannot poſitively ſwear it.

Q. Who was preſent when you ſearched Leary and Allen?

A. Several people were preſent.

Q. Was Revett preſent at that time?

A. I believe he went up ſtairs while I ſearched Leary and Allen.

Q. If you are not poſitive that he was in the room at all, how can you be certain that he went out of the room when you ſearched theſe two men?

A. I cannot be certain, I think that was the poſſibility of the caſe, I really think he was in.

Q. How long have you been an officer in Bow-ſtreet?

A. About nine years.

Q. Dont you know you muſt ſpeak to facts?

A. Certainly, as far as I know.

Q. Not knowing whether he was in the room or not, you now believe he went up ſtairs when you ſearched Leary and Allen?

A. We both together met Binns upon the ſtairs.

Q. How

Q. How long might that be after you firſt entered the room where Allen and Leary were?

A. Three or four minutes.

Q. Then you met Binns upon the ſtairs?

A. Yes, coming down ſtairs.

Q. Who ſearched Leary?

A. I think I did, I am ſure I ſearched him.

Q. What did you find upon him?

A. Some money, and a handkerchief in his pocket, and ſome gloves.

Q. That was all?

A. I believe it was.

Q. What did you find upon Allen?

A. Some money.

Q. And that was all?

A. Yes, except a pocket handkerchief.

Q. When you arreſted Binns was Binns on the ſtairs or at the bottom of the ſtairs?

A. At the bottom of the ſtairs.

Q. Did Binns make any reſiſtance?

A. He did not.

Q. I think you have told us he had piſtols in his pocket, but did not make any reſiſtance when you ſtopped him at the bottom of the ſtairs?

A. He did not.

Q. What did he ſay to you?

A. I cannot recollect the converſation now.

Q. Did not he aſk you by what authority you ſtopped him there?

A. He did.

Q. And you told him you were an officer from Bow-ſtreet?

A. I did.

Q. When you arreſted Binns at the bottom of the ſtairs, who were left in the room where Allen and Leary were?

A. One or two light horſe men.

Q. When you ſearched Binns you found ſeveral papers, that have been produced, in his poſſeſſion?

A. I did.

Q. What did you do with thoſe papers when you took them out of his pocket?

A. I tied them up in a handkerchief, I believe belonging to him.

Q. What was done with Binns?

A. We left him in cuſtody in the parlour.

Q. Did you, while you continued in the King's Head, put a mark upon any one of theſe papers.

A. I did not.

Q. While you continued in the King's Head, did this handkerchief remain in your poſſeſſion?

A. It did.

Q. Was it ever opened to put in any article belonging to any one of the other perſons now upon trial.

A. Yes, all the money I took from the other priſoners was put into the ſame handkerchief.

Q. When you firſt went into the room where Mr. O'Coigly was, you ſaw a great coat?

A. Yes.

Q. But whether this is the great coat you are not able to ſwear; now are you able to ſwear to this fact—after you had arreſted Mr. O'Coigly in the room up one pair of ſtairs, in whoſe charge and cuſtody was Mr. O'Coigly left?

A. I did not go into the bed room; as ſoon as I had ſearched Mr. O'Coigly and taken that dagger from him, I came down ſtairs to ſee after the other priſoners.

Q. Who was left in the room with him?

A. I left Revett.

Q. From the time Mr. O'Coigly was arreſted, was he ſuffered to quit the room in which he was arreſted?

A. He was arreſted up ſtairs.

Q. Was he in the bed room where the great coat was?

A. He was not in the bed room.

Q. When the great coat was ſhewn to you by Revett, was it in the room in which you firſt ſaw it?

A. He did not ſhew it me there, it was brought by him down ſtairs.

Q. Then whether the great coat you ſaw in the room below was the ſame great coat you had ſeen up ſtairs you cannot tell.

A. No.

A. No.

Q. From the King's Head you went to the Hotel?

A. We did.

Q. While you were at the King's Head, or at the Hotel, were you not desired to send for a magistrate, in order that the papers might be marked and sealed up?

A. I do not think I was.

Q. Will you swear that you were not?

A. I do not think I heard a magistrate's name mentioned.

Q. Will you swear that you were not desired to send for a magistrate, to mark the papers before that magistrate, and have them sealed up?

A. I was asked whether Mr. Twopeny was a magistrate; I said he was a magistrate and he was a proper person, I never heard any other magistrate's name mentioned.

Q. Were you or not desired to send for a magistrate, in order that the papers might be marked and sealed up at the time?

A. I do not think I was.

Q. Will you swear you were not?

A. I will not.

Q. Will you swear Revett was not desired to do it in your presence?

A. I cannot swear that.

Q. Who were present when the papers were afterwards opened at the hotel at Margate?

A. Mr. Twopeny, myself, and Revett.

Q. Then this handkerchief that had been tied up was opened at the hotel, when all the prisoners were absent?

A. It was.

Q. Where were they at the time?

A. In the Assembly room.

Q. In what room were you when the papers were opened?

A. I think a front parlour.

Q. The papers were not marked when they were seized, nor when the handkerchief was opened at the hotel?

A. They were not.

Q. In whose custody did the handkerchief continue till you got to London?

A. In Revett's.

Q. Becauſe I underſtood you to ſay in anſwer to a queſtion from my friend Mr. Garrow, that the papers continued in your cuſtody and Revett's till you got to London?

A. The luggage.

Q. Then you had not the cuſtody of the handkerchief, but it continued in Revett's cuſtody?

A. Yes.

Q. Upon your arrival in Bow-ſtreet was not this handkerchief loſt or miſſing for ſome time?

A. It was not.

Q. Did you hear nothing ſaid by any perſon about this handkerchief being miſſing?

A. No.

Q. That you ſwear poſitively?

A. I do; that was another handkerchief which had the papers of Binns in it.

Q. There was a complaint of ſome handkerchief being miſſing in which you had papers of Binns?

A. I made the complaint myſelf.

Q. Then in how many handkerchiefs were theſe papers tied up when you left Margate for London?

A. Two handkerchiefs.

Q. One of theſe handkerchiefs you ſay was in the cuſtody of Revett; was the other in your cuſtody?

A. It was.

Q. When you arrived at Bow-ſtreet, the handkerchief in your cuſtody was not to be found for ſome time?

A. It was not.

Q. What had become of it?

A. In getting out there was a great mob round the door, my wife was there, it was handed out by ſome perſon, and they thought it was mine and gave it my wife, and it was five or ten minutes before the handkerchief was found.

Q. When the handkerchief was miſſing, did not the magiſtrate direct all the priſoners to be ſearched to ſee if they had it?

A. I did not hear any ſuch order.

Q. No!

Q. Nor ſee it done?

A. I did not.

Edward Fugion,

Croſs-Examined by Mr. Gurney.

Q. You were aſked for your authority, and you told them you were a Bow-ſtreet officer, and that you intended to take them to Bow-ſtreet or to the Secretary of States?

A. I did.

Q. Did they not ſay they ſhould anſwer no queſtions till they came before a proper authority?

A. They did.

Edward Fugion,

Croſs-Examined by Mr. Ferguſſon.

Q. You ſearched Allen?

A. Yes.

Q. Did you find any papers upon him?

A. No; I found ſome money.

Q. How much?

A. About fifteen guineas: I returned it to him again.

Q. At Canterbury, where did the priſoners lie?

A. All in the ſame room, upon a mattraſs in the parlour.

Q. All in the ſame room?

A. Yes.

Q. And was the luggage there?

A. Yes, in the ſame room.

Q. Was there any perſon in the room during the night?

A. Yes, there was a ſoldier relieved every two hours.

Q. And were you there during the whole night?

A. Yes.

Q. And never left the room?

A. I did at intervals in the beginning of the evening.

Q. Were you and Revett ever out of the room at the ſame time?

A. I do not think we were.

Edward

Edward Fugion,

Croſs-Examined by Mr. Scott.

Q. After you had taken the gentlemen from the King's Head, at Margate, to the hotel, do you remember Leary going out into the garden?

A. Yes, I do.

Q. Relate what paſſed in the garden between you and him?

A. It is impoſſible to recollect.

Mr. Juſtice Buller. It is improper for two Counſel for the ſame priſoner to examine a witneſs.

Mr. Dallas. When you went into the garden with him, did you make uſe of any threat?

A. No.

Q. Did not you threaten to knock him down if he did not tell all he knew?

A. No; we had ſome altercation about going to the vault, he wanted to go with me, I ſaid he was an impudent little fellow, that was all.

Mr. William Twopeny. (Sworn.)

Examined by Mr. Adam.

Q. You are an Attorney at Rocheſter?

A. I am.

Q. You were at Margate upon the 28th of February?

A. I was.

Q. Did you ſee the priſoners there?

A. I did.

Q. What did you do when you firſt went to Margate, you went to the King's Head?

A. I did.

Q. What did you do at the King's Head?

A. I did not go to the King's Head till after they were in cuſtody.

Q. Did you ſee them in cuſtody in the parlour at the King's Head?

A. I did.

Q. Do

Q. Do you remember a great coat being brought down?

A. I do.

Q. Did any converſation paſs?

A. They were ſeverally aſked which of them it belonged to, they all denied its belonging to either of them.

Q. Did they ſay any thing about the baggage which was in the parlour?

A. They denied that alſo.

Q. Did you ſee Mrs. Crickett, the miſtreſs of the houſe, there?

A. Yes.

Q. In the preſence of the priſoners?

A. Yes, I deſired they might be brought.

Q. What did ſhe ſay with reſpect to the baggage of the priſoners?

A. She ſaid the baggage came with them, I wanted her to diſcriminate which baggage belonged to each, ſhe could not.

Q. This was in the preſence of the priſoners?

A. Yes.

Q. Was the great coat particularly aſked about?

A. It was, ſhe ſaid that likewiſe came with them.

Q. Were you preſent when any thing was taken out of the pocket?

A. I think they were in the act of taking them out at the moment.

Q. Where did you go to from the King's Head?

A. To Benſon's Hotel.

Q. When you were at Benſon's Hotel, did Mr. Revett take the handkerchief out of his pocket?

A. He did, from whence he had put it.

Q. What did you find in that handkerchief?

A. A pocket book.

Q. Did you open that pocket book?

A. I did.

Q. Look at that pocket book, is that the pocket book?

A. It is.

Q. Look at that paper, did you find that paper in the pocket book?

A. I

A. I did.

Q. Did you read it at the time?

A. I did ſeveral times, I read it firſt to myſelf, in order to know what the contents were, and upon diſcovering what the contents were, I then read it to them.

Q. In what manner did you find it in the pocket book?

A. There was ſome writing paper in the pocket book, and this was in the writing paper, the top of the writing paper was preſſed down like a ſheet of paper folded together, and the upper part was rather bent over, ſo as to contain this paper within: ſo that if I had taken that paper out by itſelf, this would not have appeared.

Q. Was it blank paper?

A. It was, at leaſt I did not ſee any writing upon it; this was in one of the folds of it, not directly in the middle, this part was bent over it, ſo that it was confined.

Q. You are quite ſure this is the ſame paper?

A. Yes, I am.

Q. Did you receive this paper from Revett? (Shewing him a paper with the addreſs of Hayman of Deal).

A. Yes, he took it out of the purſe, and I took it from him, I took it out for the purpoſe of identifying the men, for I could not find any body at Margate that knew the men.

Q. Did you give that paper back to Revett, that you ſaw him take out of the purſe?

A. Yes, the ſame paper.

Q. Did you hear any queſtion put to the priſoners as to their names?

A. The priſoners were aſked as to their names, they refuſed to tell their names, I deſired they would not puzzle them any more about aſking them their names.

Q. Were any more queſtions aſked them?

A. No.

Q. Did you accompany them to London?

A. Yes, I never parted from them after.

Q. Did you ſee the paper *(the addreſs)* produced at Bow Street?

A. Yes, and ſaw it marked.

Q. Was

Q. Was that the ſame paper you read at Margate?

A. Yes, it had never been away from us, I would not open any thing there.

Q. Is there any magiſtrate reſiding at Margate?

A. There is none, I enquired particularly if there was.

Mr. William Twopeny,

Croſs-Examined by Mr. Plumer.

Q. I underſtand you to have ſaid that you did not go with theſe Bow Street Officers at firſt, you came after theſe people were arreſted?

A. No, it was in conſequence of an arrangement made, that I did not go with them.

Q. But the fact was you did not go?

A. No, not inſide, I was outſide.

Q. What room did they firſt go into, when they came into the King's Head?

A. A parlour below ſtairs.

Q. At that time had they got the great coat below ſtairs?

A. Yes, I never went any further into the houſe.

Q. In whoſe poſſeſſion was it when you firſt ſaw it?

A. Revett's.

Q. Below ſtairs?

A. Yes.

Q. Was any thing taken out of it in the preſence of the priſoners?

A. I think the things were then taking out in the inſtant in the parlour.

Q. When the priſoners were preſent?

A. The priſoners were then preſent, they were then, I think, either in the act of taking them out, or had juſt taken them out.

Q. But you ſaw them taken out of the great coat pocket, in the parlour below ſtairs, in the preſence of the priſoners?

A. Yes.

Q. That you are poſitive of, are you?

A. In the way I ſtate it, I am certain of it.

Q. You are poſitive that that pocket book in particular

was

was produced in the parlour below ſtairs, when the priſoners were preſent?

A. Yes, and the things were put into the handkerchief upon the table.

Q. Do not let me miſunderſtand you; you are poſitive you ſaw in the parlour below ſtairs, that black pocket book, either in the act of being taken out of the great coat pocket, or in the act of being produced there, while the priſoners were preſent?

A. Yes, and put by Revett into his coat pocket.

Q. Whilſt the priſoners were preſent?

A. Yes, it was in the parlour while I was preſent, I was no where elſe, and could not ſee it any where elſe.

Q. You are quite clear about that?

A. I cannot conceive that I am miſtaken about it.

Q. Did you go with theſe two perſons, Revett and Fugion, into any other room?

A. Not in that houſe.

Q. Did you go into a room with them, when nobody elſe was preſent, at any other houſe?

A. At Benſon's Hotel.

Q. The things were not taken out of the coat at Benſon's Hotel, were they?

A. No.

Q. You are poſitive nothing was taken out of the great coat pocket at Benſon's Hotel?

A. I cannot ſay that nothing was, but that was not, for it was carried by Revett in his coat pocket from the King's Head to Benſon's Hotel.

Q. And you are poſitive they were taken out before you three got into that room at the Hotel?

A. Yes, becauſe they were tied up in a handkerchief, at the King's Head.

Mr. William Twopeny,

Re-Examined by Mr. Adam.

Q. The pocket-book was taken out of the great-coat pocket at the King's-Head, and tied up in a handkerchief?

A. Yes. *Q.* Was

Q. Was the pocket-book opened at the King's-Head?

A. Not to my knowledge, and I do not think it likely that it ſhould.

Q. What was your reaſon for not going into the houſe?

A. I had learned ———

Mr. Plumer. We do not want your reaſons.

Mr. Adam. You did not go into the houſe?

A. I did not.

[*The paper read.*]

" The Secret Committee of England to the Executive Direc-
" tory of France.

" Health and Fraternity!

" CITIZEN DIRECTORS,

" We are called together, on the wing of the moment, to " communicate to you our ſentiments; the Citizen who now " preſents them to you, and who was the bearer of them " before, having but a few hours to remain in town, expect " not a laboured addreſs from us, but plainneſs is the great " characteriſtic of Republicans.

" Affairs are now drawing to a great and awful criſis; ty- " ranny, ſhaken to its baſis, ſeems about to be buried in its " own ruins. With the tyranny of England that of all Eu- " rope muſt fall. Haſte then, great nation! pour forth thy " gigantic force! Let the baſe deſpot feel thine avenging ſtroke, " and let one oppreſſed nation carol forth the praiſes of France " at the altar of liberty.

" We ſaw with rapture your proclamations, they met our " warmeſt wiſhes, and removed doubts from the minds of " millions. Go on! Engliſhmen will be ready to ſecond your " efforts.

" The ſyſtem of borrowing, which has hitherto enabled our " tyrants to diſturb the peace of a whole world, is at an end; " they have tried to raiſe a kind of forced loan—*it has failed!* " Every tax diminiſhes that revenue it was intended to aug- " ment, and the voluntary contributions produce almoſt nothing. " The Ariſtocracy pay their taxes under that maſk; the poor " workmen in large manufactories have been forced to contri- " bute under the threat of being turned out of employ; even

" the

" the army have been called upon to give a portion of their pay " to carry on the war—by far the greateſt part have perempto- " rily refuſed to contribute to ſo baſe a purpoſe, and the few " that have complied have in general been cajoled, or reluc- " tantly compelled to it.

" Engliſhmen are no longer blind to their moſt ſacred claims; " no longer are they the dupes of an imaginary conſtitution; " every day they ſee themſelves bereft of ſome part of the " poor fragment of Democracy they have hitherto enjoyed, " and they find, that, in order to poſſeſs a Conſtitution, they " muſt *make one*.

" Parliamentary declaimers have been the bane of our free- " dom. National plunder was the object of every faction, " and it was the intereſt of each to keep the people in the " dark; but the deluſion is paſt! the Government has pulled " off its diſguiſe, and the very men who, under the ſemblance " of *moderate reform*, only wiſhed to climb into power, are " now glad to fall into the ranks of the people. Yes, they " have fallen into the ranks, and there they muſt for ever " remain, for Engliſhmen can never place confidence in them.

" Already have the Engliſh fraternized with the Iriſh and " Scots, and a delegate from each now ſits with us. The " ſacred flame of liberty is rekindled, the holy obligation of " brotherhood is received with enthuſiaſm; even in the fleets " and the armies it makes ſome progreſs—diſaffection prevails " in both, and united Britain burns to break her chains.

" Fortunately we have no leader; avarice and cowardice " have pervaded the rich, but we are not therefore the leſs " united. Some few of the opulent have indeed, by ſpeeches, " profeſſed themſelves the friends of Democracy, but they " have not acted, they have conſidered themſelves as diſtinct " from the people, and the people will, in its turn, conſider " their claims to its favour as unjuſt and frivolous. They wiſh, " perhaps, to place us in the front of the battle, that, unſup- " ported by the wealth they enjoy, we may periſh when they " may hope to riſe upon our ruin. But let them be told, " though we may fall through their criminal neglect, they can " never hope to rule, and that Engliſhmen, once free, will " not ſubmit to a few political impoſtors.

" United

" United as we are, we now only wait with impatience to " ſee the Hero of Italy, and the brave veterans of the great " nation. Myriads will hail their arrival with ſhouts of joy; " they will ſoon finiſh the glorious campaign! Tyranny will " vaniſh from the face of the earth, and, crowned with laurel, " the invincible army of France will return to its native " country, there long to* well earn't praiſe of a grateful " world, whoſe freedom they have purchaſed with their blood.

" 6th Pluvioſe, " L. S."

" A. R. P. G. 6."

Ann Crickett. (Sworn.)

Examined by Mr. Attorney-General.

Q. Where do you live?

A. At Margate.

Q. Do you remember any perſons coming to your houſe on Tueſday the 27th of February laſt?

A. Yes.

Q. What number of perſons came to your houſe any time in that afternoon?

A. At firſt three.

Q. Did the three perſons who came to your houſe appear to be all gentlemen, or what?

A. I looked upon them to be two ſervants and one gentleman.

Q. That was your judgment upon their appearance?

A. It was.

Q. Did any baggage come with them?

A. Yes.

Q. How did that baggage come?

A. It was brought in a cart.

Q. Do you recollect who the carter was that brought it?

A. One Thomſett.

Q. Do you know where they came from?

A. No.

Q. Did any other perſons come afterwards that evening to your houſe?

A. Yes,

* Sic in Original.

A. Yes, about a quarter of an hour afterwards.

Q. How many perſons came then?

A. Two.

Q. Were they, from their appearance, gentlemen or ſervants, or how?

A. As gentlemen.

Q. Are any of the priſoners at the bar any of thoſe perſons?

A. Yes, the three in front, Mr. O'Connor, Binns, and O'Coigly, and the other two are behind.

Q. Was this baggage taken out of the cart in which it came?

A. It was.

Q. Where was it put?

A. In a parlour in the front of the ſtreet.

Q. Do you remember the gentleman who came in firſt ſending for any perſon?

A. Yes; the perſon next me (O'Coigly) deſired a hair-dreſſer to be ſent for.

Q. Did any body ſtay in the room in which the baggage was put?

A. Yes, the two ſervants ſtayed in the room with the baggage below ſtairs.

Q. When the other two gentlemen came that afternoon, did they make any enquiry for any body at your houſe?

A. Yes.

Q. Do you recollect which of them made the enquiry, and what was the queſtion he aſked?

A. One of them aſked for Mr. Jones; I carried the meſſage to Mr. O'Coigly, and he anſwered to that name, and that he would wait upon them as ſoon as he was dreſſed.

Q. Did he go up ſtairs to wait upon them?

A. He did.

Q. Did he make any requeſt, or expreſs any deſire to you, about the ſervants or the baggage, as he was going up ſtairs?

A. He deſired his ſervants to take care of his baggage.

Q. Did the three gentlemen ſpend the evening together in your houſe?

A. Yes, they did.

Q. Do

Q. Do you recollect about what time they went to bed?

A. About ten o'clock.

Q. Did they appear as if they were fatigued, as if they had been taking any conſiderable exerciſe?

A. I did not take any particular notice when they firſt came in.

Q. They ſlept at your houſe that night?

A. Yes.

Q. Had you any other gueſts that night?

A. No other ſtrangers in the houſe.

Q. Did any other ſtrangers come in as gueſts before theſe perſons were apprehended the next morning?

A. Nobody elſe but the town's-people.

Q. Did any body elſe that had baggage come in, beſides theſe three gentlemen and their two ſervants, till they were apprehended?

A. None elſe.

Q. Deſcribe the rooms in which they ſlept?

A. They were all on the ſame floor with the dining-room.

Q. Where did the ſervants ſleep?

A. Up another pair of ſtairs, in one room.

Q. Who ſlept in the room on the left-hand of the dining-room?

A. I do not know.

Q. Had the two gentlemen, who came laſt in the afternoon, any baggage with them?

A. No.

Q. Juſt look at that great-coat, does it belong to any of your family, or any body elſe that you know any thing of?

A. It is not my property, nor the property of any body that I know.

Jane Dexter. (Sworn.)

Examined by Mr. Solicitor-General.

Q. You are ſiſter to Mrs. Crickett?

A. Yes.

Q. You live with her?

A. Yes.

Q. Do you remember any gentlemen coming into your houſe on Tueſday the 27th of February?

A. Yes.

Q. Were you there when they came in?

A. No.

Q. Did you find them there upon your coming into the houſe?

A. Yes.

Q. When was that?

A. About three or four o'clock in the afternoon.

Q. What perſons did you find when you came to the houſe in the afternoon?

A. I found three gentlemen up ſtairs, and two below.

Q. Were the priſoners any of the perſons that you found there?

A. Yes.

Q. Which were the three gentlemen?

A. The firſt three that ſtand in the front row (Mr. O'Connor, Binns, and O'Coigly.)

Q. Where did you find them?

A. Up ſtairs in the dining-room.

Q. Where were the two others?

A. In the front parlour with the baggage.

Q. Did you wait upon the three gentlemen?

A. I did.

Q. At what time did they go to bed?

A. I believe it was at about ten o'clock.

Q. Did they appear to be fatigued?

A. Yes.

Q. Do you know in what rooms they ſlept?

A. Yes, in No. 6, No. 7, and No. 10.

Q. How are thoſe rooms ſituate with reſpect to the dining-room?

A. The dining-room was No. 9.

Q. Which was the room Mr. O'Connor ſlept in?

A. I cannot tell which room he ſlept in; Mr. O'Coigly ſlept in No. 6, but where the other two ſlept I cannot tell.

Q. Was any thing ſaid to you about the baggage?

A. No.

A. No.

Q. Had you any other gueſts in the houſe that night?

A. None.

Q. Was any thing ſaid by the ſervants about the baggage?

A. I did not hear any thing.

Q. What time did they get up in the morning?

A. I cannot recollect.

Q. Did you prepare breakfaſt for them?

A. Yes.

Q. At what time?

A. At about nine, as near as I can gueſs.

Q. In what room did you prepare the breakfaſt?

A. No. 9, the dining-room.

Q. Who did you ſee when you went in with the breakfaſt?

A. None but this laſt gentleman. (O'Coigly.)

Q. How long was that before they were arreſted?

A. Juſt before.

Q. Had you any converſation with that gentleman?

A. He ſaid he ſhould like to take a houſe, for about a month, for lodgings, that was all—at the ſame time they came in and took him.

Q. Where did he wiſh to take a lodging?

A. In any part of the town of Margate, he did not mention where.

Q. You did not ſee any luggage that belonged to any other perſons?

A. No.

Q. You had no other gueſts in the houſe?

A. No, nobody.

Q. Do you remember ſeeing a great-coat with a black collar?

A. No, I do not.

Q. Did that belong to any of the family?

A. No.

Q. Did you ſee it when the officer came in?

A. I did not.

William Kerby. (Sworn.)

Examined by Mr. Garrow.

Q. I believe you are a ſtable-keeper at Margate?

 A. I. am

A. I am.

Q. Do you know the witneſs, Ann Crickett?

A. Yes.

Q. Did you go, in conſequence of any application that was made to you, upon Tueſday, the 27th of February, to the King's-Head at Margate?

A. Yes.

Q. Did you ſee there any perſon whom you now ſee in Court?

A. Yes, I ſaw that gentleman (Leary), and that other man (Allen), at the King's-Head.

Q. In what part of the houſe did you ſee them, and was there any thing in the room?

A. Yes, there was ſome luggage in the room.

Q. Did it reſemble this lying on the table?

A. Yes.

Q. What paſſed between you and theſe two perſons when you went there?

A. I agreed to take the luggage to Deal in a cart.

Q. Which of the two perſons ſpoke to you?

A. Leary.

Q. Did he ſpeak to you in the preſence of Allen?

A. Yes, I ſaid I would take them to Deal in my cart next morning. I aſked eleven ſhillings to go to Deal, Leary ſaid he would go up ſtairs and ſpeak to his maſter, and if he approved of it they would have the cart at ſeven o'clock.

Q. Did he leave you for that purpoſe, and afterwards return to you?

A. Yes, when he came back he ſaid his maſter had no objection to the price, he would give the price, but could not get away by ſeven in the morning; he agreed to go at twelve o'clock, he ſaid he could not get his buſineſs done to go before twelve.

Q. Did you agree to go at that time?

A. I did.

Q. Was any thing ſaid upon the ſubject of any perſons accompanying the cart?

A. Yes;

A. Yes; Leary and Allen were to walk along ſide of the cart, and they ſaid they would take a bit of breakfaſt on the road.

Q. You went away and ſaw no more of them till after they were apprehended, I believe?

A. Yes; I ſaw Allen next morning as I rode up the High-ſtreet, he deſired me not to fail being there at twelve o'clock.

Q. At what time was it you ſaw him in High-ſtreet?

A. I ſaw him at the King's-Head door; he deſired me not to fail being there at twelve, and they would be ready.

Q. Before twelve arrived they were in cuſtody?

A. Yes.

Q. Are you quite certain theſe are the two perſons with whom you had this converſation?

A. Yes.

William Kerby,

Croſs-Examined by Mr. Dallas.

Q. Leary ſaid he would go up and aſk his maſter?

A. Yes.

Q. He then went up and came down again, and ſaid he would be ready to go at twelve?

A. Yes.

Q. Next day you were to be, at twelve o'clock, in what ſtreet?

A. In the High-ſtreet.

Q. You were to take the baggage away from thence at twelve o'clock at noon?

A. Yes.

Mr. Attorney General. I am going to produce No. 5, 6, and 7, which purport to be papers of ordination of Mr. O'Coigly as a prieſt.

[*They were read.*]

" Univerſis et ſingulis quorum interſit, Infraſcriptus " atteſtor, Fidemque facio, harum latorem Magiſtrum " Jacobum O'Coigly hujus Parochie Alumnum, Juve- " num eſſe optimis Moribus imbutum, piis Catholiciſque

" Parentibus et Thoro legitimo natum, riteque baptizatum a
" R. D. Eugenio Laverty (Suscipientibus eum Jacobo Marlay
" et Joanna O'Donnelly) uno ex Predecessoribus meis, die
" octava Mensis Augusti et Anni Milessimi septingentissimi
" sexagessimi primi, necnon ab Illustrissimo ac Reverendis-
" simo, D.D. Thomâ Froy Episcopo Ossorienssi confirmatum;
" in quorum Fidem hisce subscripsi, hac Die Decembris,
12°. 1784.

" Dudleus Deolin.
" Parochus de Killmore."

" Richardus Miseratione divinâ et S. Sedis Apostolicæ
" Gratiâ Epūs Oropensis nec non Primatialis et Metropolitane
" Ecclesiæ Armachane Coadjutor, et Administrator.

" Universis et singulis præsentes nostras visuris, lecturis pa-
" ritur et audituris, notum facimus et attestamur, Nos Dun-
" gannonie Diebus 31 Decembris, 1. et 2. Januarii Annorum
" 1784, et 1785, nempe Festis S. Silvestri P. A. Confessoris,
" Circumcisionis Domini nostri Jesu Christi, et Dominica
" immediate insequenti in Ecclesiâ parochiali S. Annæ, Missas
" in Pontificalibus celebrantes, dilectum Nobis in Christo Filium
" Jacobum O'Coigly, hujus Archi Diœcesis Armachanæ Alum-
" num, juxta et secundum S.R.E. Ritum Morem et Consuetu-
" dinem, in Vim Privilegiorum Apostolicorum ad primam Ton-
" suram et quatuor minores Ordines necnon ad tres sacros,
" nempe Subdiaconatus, Diaconatus, et Presbyteratus, præviis
" Exercitiis Spiritualibus rite ac recte servatis servandis, in
" Domino promovisse, et ordinasse—In quorum omnium et
" singulorum Fidem has præsentes Literas a Nobis et a Secre-
" tario nostro subscriptas, Sigilloque nostro parvo munitas fieri
" jussimus. (L.S.)

" Richardus Epūs. Oropensis
" Coadjutor et Admōr. Armachanus.

Datum Pontanæ, " Mattheus White, Secr^s."
Die 30, Martii 1785.

" Richardus

" Richardus Miſeratione divinâ, et S. Sedis Apoſtolicæ " Gratiâ Epūs Oropenſis, necnon Primatialis et Metropoli- " tanæ Eccleſiæ Armachanæ Coadjutor et Adminiſtrator.

" Univerſis et Singulis Præſentes noſtras viſuris, lecturis " pariter, et audituris, notum facimus et atteſtamur Reve- " rendum Dominum Jacobum Coigly Diœceſis Armachanæ, " Preſbyterum Morum Probitate, Vitæque Integritate eſſe " commendabilem, nulloque excommunicationis, ſuſpenſionis " interdicti vel Irregularitatis Vinculo innodatum. Quapropter " eum Studiorum, et Pietatis Cauſâ in Catholicas Regiones " profiſciſcentem, Epiſcopis Catholicis, eorumque Vicariis ge- " neralibus vehementer in Domino commendamus, quatenus " illum benigne ſuſcipiant, et ad Miſſæ Sacrificium celebrandum " admittant. Inſuper prædictum R. Dominum Jacobum " O'Coigly magnopere commendatum volumus Collegiorum " noſtrorum Moderatoribus, præſertim vero Reverendo Admo- " dum Domino Charolo O'Neil Collegii Longobardorum " Pariſienſis Præſidi Spectatiſſimo, ut illum in Seminarium " ſuum excipiat, ut ſub ipſius vigili Curâ ſacris Diſciplinis " ſedulam Operam navans, idoneus tandem confecto Studiorum " Curriculo, hujus Dominicæ Vineâ Operarius evadat. In " quorum omnium et ſingulorum Fidem has præſentes Literas " a Nobis, et a Secretario noſtro ſubſcriptas, Sigilloque noſtro " parvo munitas fieri juſſimus.

" Richardus Epūs. Oropensis
" Coadjutor et Admōr. Armachanus.

Datum Pontanæ, " Mattheus White, Secr^{s}."
Die 30, *Martii* 1785.

Mr. Frederick Dutton. (Sworn.)

Examined by Mr. Garrow.

Q. Are you acquainted with Mr. O'Coigly, the priſoner at the bar?

A. I know Prieſt O'Coigly very well; I knew him at Dundalk, in the North of Ireland.

Q. Are you acquainted with his hand writing?

A. I have ſeen him write a number of times.

Q. So as to have acquired a knowledge of his manner of writing?

A. Yes.

Q. Look at that paper and ſay whether, from your knowledge of his manner of writing, you believe that to be his hand writing?

A. I do believe it to be his writing.

Q. Do you include in that the ſignature as well as the whole body of the paper?

A. I believe it to be all the ſame hand-writing, and Mr. O'Coigly's hand writing.

Mr. Garrow. This is one of the papers which was found in Mr. O'Coigly's pocket book.

[*It was read.*]

" *Mancheſter, Feb.* 14, 1798.

" SIR,

" Notwithſtanding the ſevere prohibition enforced by the " French againſt our merchandize, I am reſolved to carry on " the trade at all events.—*Hence I ſend a confidential friend to* " *arrange the neceſſary preliminaries with you, and take proper* " *meaſures to elude the force of that law—if you judge it ne-* " *ceſſary that he ſhould remain on your ſide the water to aſſiſt* " *in receiving the goods—be it ſo.*—You will procure him the " paſſports or protections neceſſary in your country. Let me " know as ſoon as poſſible whether we may venture to ſend " goods into the French Territories by land—I think it " highly probable—if ſo—we ſhall have a great ſhare of the " trade to ourſelves.

" Your's ſincerely,

" WILLIAM PARKINSON."

Addreſſed—" Mynheer George Frederick Vander " Hoop, Speigel-ſtraet, Rotterdam."

Q. Look

Q. Look at this letter, ſigned Edward Wallace?

A. I believe that alſo to be Mr. O'Coigly's hand writing.

Mr. Garrow. We ſhall read this preſently, when we have proved it to have been found in the priſoner O'Coigly's pocket book.

Mr. Attorney General. Look at that paper (the paſs)—Do you find there the hand writing of Mr. O'Coigly?

A. Yes.

Mr. Frederick Dutton,

Croſs-Examined by Mr. Plumer.

Q. You are Mr. Frederick Dutton, I think?

A. Yes.

Q. What are you?

A. A Quarter Maſter in the Royal Iriſh Artillery.

Q. What were you before you were that?

A. I had a commiſſion in the Revenue which I hold yet.

Q. How long is it ſince you were a ſervant to a gentleman?

A. I have not been a ſervant for ſome time, now.

Q. Whoſe footman were you laſt?

A. I do not conceive that I was any perſon's footman.

Q. Have you any doubt about it?

A. I have a doubt as to being a footman.

Q. Was it butler?

A. I never was conſidered as a footman.

Q. In what capacity have you been?

A. I have been engaged as own man and butler, but never as a footman.

Q. How many gentlemens own ſervant have you been who had no other ſervant but you?

A. There were other ſervants in the houſe, ſuch as a coachman.

Q. You were a livery ſervant?

A. You may term it that way if you pleaſe, although I wore my own clothes.

Q. Do you mean to ſwear you never wore a livery?

A. No, I will not ſwear that; but I was not engaged as a livery ſervant?

Q. When

Q. When I put the queſtion to you, whether you were a livery ſervant, you ſaid you may put it ſo if you pleaſe, but I wore my own clothes?

A. I was engaged by Mr. Carpenter, of Armagh, as his own man and butler; he begged I would wear the livery till another ſervant was got—when that ſervant was got I did not wear the livery.

Q. Then it now comes out that you did wear a livery, and were in the capacity of a ſervant?

A. Yes.

Q. How many people did you ſerve?

A. I lived with Captain Bartom, of the 63d regiment four years at firſt—I afterwards went to Doctor Levingſton, and from that to Mr. Lee, and from that to Mr. Carliſle—and from that to Mr. Carpenter;—I think that is the extent of my ſervitude——I attended Mr. Coleman too, I forgot him.

Q. That is five perſons you have been ſervant to. Upon what occaſion were you diſmiſſed the ſervice of Mr. Carliſle?

A. I dare ſay you will think it ſufficient when I tell you, on my oath, that Mr. Carliſle over-paid me my wages, and I have never met him ſince without his ſpeaking to me on the moſt friendly terms.

Mr. Juſtice Buller. Anſwer the queſtion, on what occaſion did you leave him?

A. In conſequence of an infamous woman having told a lie about me, which I believe Mr. Carliſle at this moment believes to be ſo.

Mr. Plumer. What was that lie?

A. Things ſhe laid to my charge that I was not guilty of.

Q. What things?

A. A number of things.

Q. Theft among the reſt.?

A. Yes.

Q. And upon that you were diſmiſſed?

A. Upon her information I was diſmiſſed; and I am ſure that Mr. Carliſle at this day, from the countenance he always gives me, is well convinced I was not guilty.

Q. Pray

Q. Pray how often have you been a witneſs in a Court of Juſtice.

A. Am I to include this time?

Q. Either include or exclude it.

A. I was twice before.

Q. Upon what occaſions?

A. I was brought as a witneſs againſt one Kayne, in Down Patrick, a man who was executed; and I was brought againſt one Lowry, at the laſt Down Patrick aſſize.

Q. Were you a ſervant when you were brought as a witneſs firſt?

A. I was not.

Q. What were you?

A. I was then keeping a public houſe and grocery: during the time I was a ſervant, I kept a public houſe and grocery too.

Q. While you were a gentleman's ſervant?

A. Yes; my wife carried on the buſineſs.

Q. Do you mean to ſwear that you kept a public houſe during all the time you were a ſervant to theſe five different gentlemen?

A. From the time that I lived with Mr. Coleman till I left Mr. Carpenter, I kept a grocery and public houſe: I had a grocery licence the whole time; but I did not the whole time I lived with Mr. Coleman keep a public houſe.

Q. Did you keep a public houſe or not?

A. Yes.

Q. Without a licence?

A. No; I had a grocery licence from the time I lived with Mr. Coleman till I left Mr. Carpenter: I had the public licence part of the time, but not the whole time.

Q. From the time you ſerved Mr. Coleman, you had this licence for a public houſe?

A. Yes.

Q. But before that, you were nothing but a ſervant?

A. Before I went to Mr. Coleman, nothing elſe.

Q. I believe you were diſcharged from Mr. Coleman's upon a ſimilar charge?

A. I

A. I was not.

Q. Upon what occaſion were you diſcharged by him?

A. In conſequence of his cohabiting with another man's wife, and my diſcovering it; and he took a prayer-book, and wanted me to take an oath that I would not diſcover it; and he offered me twenty guineas; and becauſe I would not take that oath, he diſcharged me.

Q. And you mean to ſwear upon your oath, you were not diſcharged becauſe ſome money was miſſing out of a drawer?

A. By virtue of my oath, and as I ſhall anſwer it to God, I never heard it from that day to this.

Q. Do you recollect a perſon of the name of Laver?

A. Very well.

Q. Do you remember threatening that you would be revenged on account of this buſineſs of Mr. Coleman's?

A. I do not recollect any ſuch thing.

Q. Will you ſwear you never ſaid you would be revenged?

A. I might ſay that I would make him make a fair ſettlement, when he took my books and burned them.

Q. You will ſwear you never ſaid that?

A. I do not recollect ever having ſaid that——I know at different times I conſulted with Mr. Laver, in what manner I ſhould proceed ſo as to bring Mr. Coleman to a ſettlement—When I quarrelled with him, he burned the books.

Q. You once lived at Dundalk, did not you?

A. Yes.

Q. You do not live there now?

A. I do not.

Q. I believe you lodged ſome charge before a magiſtrate there, againſt Mr. Coleman, your maſter?

A. I did to an attorney, not to a magiſtrate.

Q. Soon after that, you left the place; did not you?

A. Yes.

Q. And went to a diſtance from thence——You have never applied to be rewarded for your evidence any where when you were in Ireland?

A. I believe not.

Q. You believe not——You muſt know whether you have

or not——Did you ever aſk for a place of Mr. Cook, the Secretary, in Ireland?

A. I believe I never have aſked Mr. Cook for any thing.

Q. You never applied to him upon any ſubject of giving you any thing?

A. I believe not.

Q. You muſt know whether it is ſo or not?

A. I will ſwear to the beſt of my belief.

Q. A man can hardly have forgot the caſe of an application to the Secretary of State——You, who were once a common footman, and are now a quarter maſter, as you repreſent, can tell whether you have ever aſked a place of the Secretary of State?

A. I have never aſked the Secretary of State for any thing, nor Government for any thing; and I do not conſider them as indebted to me; for I have done no more than my duty: but I do hope Government will provide for my family, and protect me.

Q. Have you never applied for a quarter maſter's warrant?

A. I never did, upon my oath.

Q. You ſwear to hand-writings——Let me ſee if you know your own hand-writing——Look at the ſignature to that letter?

A. I believe it is my hand-writing—I really do not know the contents of it——I know that I never applied to Mr. Cook, either by letter or otherwiſe.

Q. The queſtion I aſked was, whether you ever applied to any perſon for a quarter maſter's place?

A. I never did——I believe that letter was to Lord Carhampton——There was an anonymous letter ſent to me at Newry, to bring me up in the dead of the night; a man was murdered that night: this letter was ſigned Henry Euſtace, ordering my attendance at the Caſtle at Dublin. I never knew Lord Carhampton; but upon enquiring whether I could ſee his Lordſhip, I went to him, and ſaid, in conſequence of your Lordſhip's letter, I am come here, in obedience to your Lordſhip's commands.——He ſaid, I do not know you: who are you.——I ſaid, I came in conſequence of a

letter

letter I received laſt night; I gave Lord Carhampton the letter; he brought me into his own office; Captain Euſtace was along with him. On looking over it, they found it to be a counterfeit: Captain Euſtace ſaid, it is like my hand; but I ſwear I never wrote it.——You have had a moſt miraculous eſcape, ſaid Lord Carhampton.

Mr. Gurney. This certainly is not evidence.

Mr. Plumer. He is telling a long ſtory about what paſſed between him and Lord Carhampton.

Mr. Juſtice Lawrence. You aſked him if that was his handwriting: he is explaining the letter.

Mr. Plumer. He has poſitively denied that he ever applied to Lord Carhampton for a quarter maſter's warrant.

A. I ſaid, I did not apply to Mr. Cook.

Mr. Juſtice Buller. He has juſt ſaid, that he did apply to Lord Carhampton.

Mr. Gurney. Mr. Plumer aſked him, if he ever applied to Mr. Cook: he ſaid, No.——Then Mr. Plumer asked him generally, if he applied to any body: he ſaid, No.

Mr. Juſtice Buller. I have taken it ſo.

Mr. Plumer. My queſtion to him was, whether he had applied or not for a quarter maſter's warrant?

A. I did not apply for it.

Q. You never did, to any body?

A. I did not.

Q. Not to Lord Carhampton, nor any body elſe?

A. He firſt promiſed it to me before I wrote any thing to him about it; then I wrote if I might go down to my family in the North.

Q. Then I underſtand now, that after he had promiſed, you did apply to him, to remind him of his promiſe, and to deſire he would remember it?

A. That might have been the caſe.

Q. Am I to underſtand that that was the fact, or not?

A. As far as I recollect, I wrote to him, begging he would give me an anſwer, whether I muſt ſtay in town, or go to my family; that it was more than I could afford, to be myſelf in one place, and my family in another.

Q. Was

Q. Was that before, or after you had been examined as a witneſs?

A. After my firſt examination as a witneſs, I believe.

Q. Were you in the capacity of a ſervant when you were examined as a witneſs?

A. No, I was not.

Q. How long had you ceaſed to be ſo?

A. A few months.

Q. Both the times when you were a witneſs, you had ceaſed a few months at each time?

A. Yes.

Q. You have ſworn you ſaw Mr. O'Coigly write. Upon what occaſion did you ever ſee him write?

A. On various occaſions: I have ſeen him write letters and notes; I have carried notes to the Poſt-Office for him, and can relate a ſingular circumſtance to you and the Court.

Q. I do not want your ſingular circumſtance.

Mr. Garrow. The witneſs is entitled to give the anſwer.

Mr. Plumer. Your Lordſhip ſees how he tacks things on to his anſwer.

A. There was a poor man of the name of Coleman in the gaol of Dundalk: he was under ſentence of tranſportation, or death, I cannot ſay which: he was taken very ill———

Mr. Plumer. Don't tell us about ſentence of tranſportation, or death, without producing the proper evidence of it.

Mr. Garrow. He was in priſon?

A. Yes; this man had a wife, and was in great diſtreſs: the man's wife uſed to come to my little ſhop for tea and bread, and what they wanted: ſhe had no money, and left her huſband's watch in my poſſeſſion for the goods ſhe wanted.—Prieſt O'Coigly, I believe through an act of charity to the poor man, took upon him to have this watch raffled, to relieve the poor man: he took a piece of paper, and put his own name, and after that about a dozen more, and deſired me to call upon theſe people, and they would give me a ſhilling a piece; he gave me his ſhilling, and ſaid he would collect more about the town.

Mr.

Mr. Plumer. Upon that occaſion you ſaw him write?

A. Yes.

Q. How many times have you ever ſeen him write—— Have you ſeen him write three times?

A. For more than twelve months together I have ſeen him write two or three times a week regularly—He uſed to come to Mr. Coleman's room every day—I do not think, during the fifteen months I lived with Mr. Coleman, he was with him upon an average leſs than two days a week.

Q. Look at that paper, and tell me whether that too is your hand-writing?

A. I ſwear that is not my hand-writing.

Q. Look at the back of it?

A. My name is on the back of it; my name, in my own hand-writing, or elſe it is a very complete counterfeit, it is very like it. There is nothing my hand-writing but my name ſubſcribed on the back; the other I know nothing about.

Q. I believe you were examined upon one of thoſe occaſions, as a witneſs againſt one Lowry?

A. I was.

Q. Upon that occaſion do you remember your ſaying that you had been ſworn not to divulge the ſecret?

A. I did.

Q. And the way you got out of it was by ſaying the book you ſwore on was a book "Reading made Eaſy?"

A. All that is true—I ſay this, that an oath was propoſed, and that it was to be on a "Reading made Eaſy," I did not conceive that I was bound by it as an oath.

Q. You had bought ſome plate of this man?

A. Yes.

Q. You ſwore to ſecreſy upon this book, "Reading made Eaſy," not to diſcloſe that you had bought it?

A. Yes.

Q. Afterwards you came into a Court of Juſtice, and ſwore againſt him?

A. I took the oath at that time with the intention of doing ſo; it was with the intention of apprehending the robbers that I did

I did it, by the directions of Major Walton; it was not my own money that I purchaſed it with.

Mr. Frederick Dutton,
Re-Examined by Mr. Garrow.

Q. You were examined in a Court of Juſtice under the uſual forms and ſanctions, ſwearing on the Evangeliſts?

A. I was.

Q. And upon that occaſion you diſcloſed an illegal oath which had been adminiſtered to you, upon a book which had no ſolemnity nor ſanction belonging to it?

A. I did.

Q. And which oath was, that you would conceal a felony previouſly committed?

A. Yes.

Q. Was the oath adminiſtered to you, or did you take that book into your hand, and ſwear yourſelf?

A. It was adminiſtered to me.

Q. In order to be able to diſcloſe a felony previouſly committed, upon the ſubject of the plate; if I underſtand you right, you purchaſed the plate, and undertook, upon this illegal oath, not to diſcloſe the tranſaction; you were afterwards called upon in a Court of Juſtice, under the ſolemn ſanction of a legal oath, to diſcloſe the tranſaction?

A. I was.

Q. Did you diſcloſe it truly?

A. I did.

Q. Did you attend Mr. Coleman whilſt he was in priſon?

A. I did, fifteen months.

Q. Do you know what he was in priſon for?

Mr. Plumer. That muſt be proved in a proper form.

Mr. Garrow. How long have you been a Quarter-maſter?

A. I think ſince laſt November; I have my warrant in my pocket.

Mr. Plumer. With his Lordſhip's permiſſion I wiſh to aſk whether the man was acquitted or convicted about the plate?

Mr. Garrow. Mr. Plumer has forgotten his own objection of not having the record here.

Mr. William Lane. (Sworn.)

Examined by Mr. Garrow.

Q. Are you acquainted with the hand-writing of Mr. O'Connor?

A. I am.

Q. Have you seen him write?

A. I have.

Q. Have you seen him write often enough to have formed an acquaintance with his character of hand-writing?

A. I have.

Q. Look at that paper; do you, from your knowledge of Mr. O'Connor's hand-writing, believe that paper to have been written by him?

A. I do.

[*The paper read.*]

" Dear Jones,

" Our friend Bell requests you will dine " with him this day at five o'clock. I hope to see you.

" Your's ever,

" Sunday. " O. C."

Mr. William Lane,

Cross-Examined by Mr. Dallas.

Q. I believe you are an attorney, and live at Cork?

A. I am attorney, and do live at Cork.

Q. At what time was Mr. O'Connor Sheriff of the county of Cork?

A. He came into the office in February, 1791.

Q. I believe you were his Under Sheriff during the time he served the office?

A. I was.

Q. Was not Ireland at that time in a state of considerable disturbance?

A. At the end of the year it was.

Q. Was not Mr. O'Connor at considerable expence to maintain the tranquillity of the county?

A. I

A. I believe him to have been a very good High Sheriff.

Mr. Garrow. This paper has been proved to have been found in O'Coigly's pocket by Revett. Do you, Mr. Lane, believe that to have been written by Mr. O'Connor?

A. It is very badly written, but I believe it to be his hand-writing.

Mr. Dallas. Look at it again, and tell me whether you will take upon you to ſwear that that is Mr. O'Connor's hand —I am ſure you will not do what is wrong?

A. I certainly believe it to be Mr. O'Connor's hand-writing.

[*The Letter read.*]

" My dear Captain,

" I encloſe you a bank-note for 10l. I am ſorry it " is not in my power at preſent to accommodate you farther, " as I have been diſappointed in receiving remittances from " Ireland. I mentioned to you my having ſome bills of Flan- " nock's, which are here perfectly uſeleſs to me. Shall I ſee " you before you go to the country? Particular buſineſs pre- " vents me from calling on you this morning.

" Your's,

" A † - - - - -

" Twelve o'Clock."

Addreſſed to " Lieutenant Johnes,
" No. 14, Plough-court, Fetter-lane."

† *The reſt of the ſignature illegible.*

Mr. Attorney General. I would aſk whether theſe two letters are Mr. O'Connor's hand-writing?

Mr. Lane. They are.

Mr. Attorney General. I mean to read them hereafter; the firſt is a letter to Lord Edward Fitzgerald, the other a letter to Mr. Roger O'Connor.

James Claris. (Sworn.)

Examined by Mr. Adam.

Q. Do you know the priſoners at the bar?

A. One I have ſeen before, Binns.

Q. Do you remember his coming to you at Canterbury, on the 23d of February laſt?

A. It was about that time he came to my ſhop, about the 22d or 23d; he introduced himſelf to me by the name of Williams, he made an apology for introducing himſelf to me as a ſtranger. In the courſe of converſation a perſon's name came up that I expected was the perſon that recommended him to me, a Mr. Rickman, in London.

Q. After he had introduced himſelf to you, did he aſk you any queſtions reſpecting the coaſt of Kent?

A. He ſaid he had buſineſs on the coaſt of Kent; that he wanted information reſpecting people on the coaſt engaged in the ſmuggling buſineſs.

Q. Did you give him any information?

A. I told him that my acquaintance with people of that deſcription was but little, but I apprehended at any place round the coaſt he might find numbers of people engaged in that buſineſs; he aſked me the way to Whitſtable; I directed him the way to Whitſtable; he aſked me if I could recommend him to any perſon at Whitſtable; I ſaid there was nobody there that I could take that liberty with; he aſked me the names of the public houſes in the place; I enumerated moſt of them that I recollected; I recommended him to one houſe in particular, knowing the landlord of the houſe, Mr. Kitchingham, the Duke of Cumberland.

Q. Did he aſk you about any gentleman in Canterbury that he was directed to?

A. Yes; he aſked me where he was to find Mr. Mahoney, I went with him there, he introduced himſelf to him in a ſimilar manner as he did to me, but I did not hear the whole that paſſed betweeen them, I had occaſion to go away; when I came back again he was there, I repeated my directions again of the road to Whitſtable.

Q. What time in the evening was this?

A. It was in the morning, I ſhould ſuppoſe about eight o'clock; it was before my breakfaſt-time, I uſually breakfaſt between eight and nine.

Q. What inn did you firſt ſee him at?

A. The

A. The firſt time I ſaw him at any inn was the evening of the ſame day.

Q. Did he go to Whitſtable?

A. He did, as I ſuppoſe; I ſaw him again in Canterbury that evening at a porter-houſe, a common public room for ſtrangers and inhabitants ſhop-keepers.

Q. Did he aſk you any directions to any other place?

A. In the courſe of that evening he told me he thought he ſhould not make it do at Whitſtable, or ſhould not ſucceed, or words to that effect; I gave him a direction; after ſome converſation he ſaid he ſhould go to Deal, could I recommend him to any perſon in particular at Deal; I did ſo.

Q. Who did you recommend him to there?

A. I recollected a perſon I knew of the name of Campbell, and I wrote him a note, which he carried to Mr. Campbell.

Q. Is that the note you wrote?

A. Yes; this is my hand-writing.

[*It was read.*]

" Dear Campbell, " Canterbury, Feb. 22, 1798.

" The bearer (Mr. Williams) is a friend " of our friend Clio, and appears to want ſome information " on buſineſs, of what nature I know not, but ſuppoſe in the " ſmuggling trade; from the recommendation I have received " he appears to be worthy of aſſiſtance, and having no friends " in Deal, he wiſhed me to write a note by way of intro- " duction. You will excuſe (I hope) the liberty I take, and " judge of him from what you hear from himſelf.

" I remain, dear Sir,

" Your's, reſpectfully,

" JAMES CLARIS."

Addreſſed to " Mr. Campbell, Pilot, Deal."

Mr. Adam. Did he tell you any thing of what had paſſed at Whitſtable?

A. No; but that it would not anſwer his purpoſe.

Q. Did he ſay any thing about the hoy?

A. He ſaid in the morning he was going to Whitſtable; he expected ſome things down by the hoy, and ſome friends: that was in the morning, when he firſt introduced himſelf to me.

Q. Did he ſay any thing about the hoy when he came back to Canterbury?

A. I do not know that he did in particular; I believe ſomething paſſed that I recollected the hoy generally came in in the beginning of the week; that veſſel ſeldom comes in till Monday. I had occaſion to write to a relation of mine at Deal, and I put a poſtſcript to the letter.

Q. Does that poſtſcript relate to Williams?

A. It certainly related to Williams.

Q. When did you ſee him after this; did Williams, or Binns, as you know him now to be, deſire you to write that poſtſcript?

A. Yes; I told him, having occaſion to write to a friend, I ſhould put a poſtſcript to this perſon, that he might, if he pleaſed, call upon him.

Mr. Dallas. His being deſired to write a letter is evidence; but the contents of that letter is not evidence.

Mr. Adam. No; but that he wrote the poſtſcript in conſequence of a converſation. When did you ſee him after that?

A. Sunday evening afterwards I ſaw him again in Canterbury.

Q. Where did you ſee him at that time?

A. At a public houſe called the Sun, in Canterbury.

Q. Who was with him then?

A. Mr. Mahoney came up to me in the evening, and told me——

Mr. Dallas. You muſt not ſtate what paſſed with him.

A. The way I came to ſee him then, was through the invitation of Mr. Mahoney to go down and ſee Mr. Williams again.

Q. Who was with him at that time?

A. There was nobody in the room when I went in; but I went with Mr. Mahoney and another friend or two from my houſe. I had ſome converſation with him, and then he admitted that his name was Binns.

Q. What

Q. What elſe did he ſay?

A. He ſaid his reaſon for going by another name was, being ſo lately tried at Warwick Aſſizes, he thought people might make impertinent enquiries.

Q. How long might you remain with him there?

A. Probably two hours.

Q. Did you ſee any more of him?

A. I never ſaw him again till I ſaw him at the bar.

Q. Did you mean Rickman, by Clio?

A. Yes.

Thomas Clio Rickman. (Sworn.)

Examined by Mr. Garrow.

Q. I believe you live in London?

A. Yes.

Q. Are you acquainted with a perſon of the name of Claris, at Canterbury?

A. Yes.

Q. Do you know the priſoner at the bar, Binns?

A. No; I do not recollect ever ſeeing him before.

Q. Did you ever give him any introduction to Mr. Claris, either by letter or meſſage?

A. I never did.

Q. Your name is Clio Rickman?

A. Yes.

Q. And you are known by that name to Claris?

A. Very well, ſome years ago.

Kean Mahoney. (Sworn.)

Examined by Mr. Solicitor General.

Q. You are a fiſhmonger and fruiterer at Canterbury?

A. I am.

Q. You have formerly been in a different ſituation, I believe?

A. Yes.

Q. Do you know Mr. Binns?

A. I do.

Q. Do you remember his coming with Mr. Claris at any time?

A. I do.

Q. When was that?

A. I cannot ſpeak poſitively as to the day, but it was ſomewhere in the latter end of February, I believe; I know it was on a Friday.

Q. Did you know him before he came to you with Claris?

A. No; I never ſaw him before.

Q. What converſation had you with him?

A. He told me he was recommended by a friend of his to call on me.

Q. Who was that friend?

A. A Mr. Bailey.

Q. Of what place?

A. I do not know where he was then, but he formerly lived at Foreditch, near Canterbury.

Q. Did you know what was become of Mr. Bailey at that time?

A. No.

Q. What did he ſay when he introduced himſelf to you?

A. He told me there were ſome friends of his were very much diſtreſſed to get to the other ſide; that they wanted to eſtabliſh ſomething in the ſmuggling line, and that he was anxious to get them on the other ſide; that previous to his leaving London he was directed to call at Whitſtable, that he wiſhed to know if I knew any perſons there that were uſed to letting boats; I told him I did know, and mentioned the name of one in particular, a man of the name of Foreman.

Q. Where did Foreman live?

A. In Whitſtable.

Q. What is he?

A. He belongs to the Oyſter Company of Dredgers.

Q. Did Binns aſk about any body at Whitſtable?

A. He ſaid he was directed to a perſon of ſome other name, which I do not immediately recollect; but I ſhould recollect the name if I heard it—it was of the name of Appleton.

Q. When he ſaid he wanted to go on the other ſide, did he ſay to what place?

A. He

A. He did not ſay he wanted to go; but he had ſome friends in London wanted to go on the other ſide, he ſaid either to Fluſhing or Oſtend.

Q. Did you ſee Mr. Binns again that evening?

A. I ſaw him on his return from Whitſtable, that was, I believe, that evening.

Q. What converſation had you with him then?

A. I asked him how he was likely to ſucceed, he told me he feared not at all. I asked him why; he ſaid they were ſo exorbitant in their demands, that he was afraid he could not comply with them.

Q. Did you ſee him after that?

A. On Sunday I ſaw him, he called at a public houſe where I was, in Canterbury, on horſeback.

Q. What was the public houſe?

A. The Shakeſpear.

Q. What did he ſay to you then?

A. He told me he was very much fatigued, having rode from Graveſend, and wiſhed to reſt himſelf; and deſired me to recommend him to ſome houſe where he could be more private and comfortable than he was where he was laſt.

Q. Did he ſay where he had been?

A. That he had been to London.

Q. Did he tell you what for?

A. I underſtood it was to acquaint thoſe gentlemen with his journey to Whitſtable, and the reſult of it; he did not tell me that.

Q. Did he ſay when he left London?

A. Yes; he ſaid he left it in the morning of Sunday, that he got to Graveſend in one of the Graveſend boats.

Q. Did he tell you how he got from Graveſend to Canterbury?

A. On horſeback.

Q. Did he ſay any thing more to you about his reaſon for coming back?

A. He ſaid the gentlemen were not at London that he wanted to ſee.

Q. Did

Q. Did he ſay any thing about thoſe gentlemen, whether they were coming, or what?

A. No.

Q. Did he mention any thing about the Whitſtable hoy?

A. He ſaid he underſtood they were to come by the Whitſtable hoy; but he could not tell any thing of it, becauſe they were gone, he ſaid, before he came out of London.

Q. He ſaid he wanted a quieter houſe than he was at before; what houſe was he at before?

A. The Roſe, he told me.

Q. Did you recommend him to any houſe?

A. I did.

Q. What was that houſe?

A. The ſign of the Sun, kept by a man of the name of Cloke.

Q. Did you go with him there?

A. I did.

Q. When you got there, did he deſire you to enquire about any letters?

A. No, he did not; he ſaid he wiſhed to know whether there were any letters for him at the Office, and wiſhed to get a ſervant boy in the houſe to go to enquire for them; I told him I would go, as he was ſo fatigued.

Q. Where did he direct you to go?

A. To the Poſt-office, or to the Fountain; I went to the Poſt-office.

Q. What did you enquire for?

A. Letters to the name of Williams, addreſſed to the Office, or to the Fountain.

Q. Did you find any letters there?

A. The Poſt-maſter delivered me two, addreſſed to the name of Williams.

Q. Where?

A. I do not know exactly, for I did not take upon me to read them.

Q. Who paid for them?

A. I did, and was repaid by him when I delivered him the letters,

letters, which was immediately; I know nothing of their contents.

Q. Look at that letter.

A. I ſee it is directed by the name of Williams; but I cannot ſay this is the letter: I put them both in my pocket as ſoon as I received them from the Poſt-maſter, and did not examine them at all; I thought it a matter of impertinence to do ſuch a thing: I took the Poſt-maſter's word that they were directed for him, I took them and put them immediately into my pocket, and delivered them to Mr. Binns, and he paid me for them.

Kean Mahoney,

Croſs-Examined by Mr. Gurney.

Q. Mr. Binns deſired you to enquire for letters by the name of Williams?

A. He did.

Q. Did he give you any particular reaſon for not going by his own name?

A. He did, and it appeared to me a very ſufficient reaſon: he firſt introduced himſelf to me by the name of Williams; then, after having mentioned his buſineſs, and finding I was a native of the ſame kingdom he belonged to, he told me he hoped he need not uſe any more diſguiſe with me; he told me he would inform me his name was Binns, and the reaſon why he did not continue that name, was, his having once been tried for an offence againſt the laws of the country, and that though he was acquitted, he underſtood Canterbury to be ſo curious a place, and inquiſitive, that he did not chuſe to go by his own name.

Q. Did he tell you he underſtood his letters were opened at the Poſt-office, that were directed to him by the name of Binns?

A. I am not poſitive of that; but I believe there was ſomething of that kind paſſed.

Q. You ſaw him afterwards, I believe, on the Monday morning?

A. I did.

Q. Upon that occaſion did you go to Claris's ſhop, and purchaſe a map of Kent for him?

A. He

A. He came to me in the forenoon about twelve o'clock, I preſſed him to ſtay dinner with me, he declined it, and begged I would go and purchaſe a map of Kent for him, which I did.

Q. Look at this map, has it the appearance of being the map?

A. This has the appearance of being ſuch a map as I bought.

Q. Did he borrow any article of clothing of you on that Monday?

A. Yes; he ſaid, not having any luggage, he wanted a ſhirt and neckcloth. I lent him a ſhirt and neckcloth; I was obliged to call for his, in order to have them waſhed againſt his return.

Q. How ſoon did he propoſe returning?

A. I underſtood in a day or two.

Q. And you got his linen waſhed for him againſt his return?

A. I did.

Q. You did not underſtand that he was going abroad?

A. No, I never underſtood ſo.

William Kitchingham. (Sworn.)

Examined by Mr. Garrow.

Q. I believe you keep the inn, known by the name of the Duke of Cumberland, at Whitſtable?

A. Yes.

Q. Do you remember, on Friday the 23d of February, ſeeing any perſon at your houſe who is now in Court?

A. Yes, that man (Binns.)

Q. He came to your houſe?

A. Yes.

Q. What did he ſay to you?

A. He enquired if I knew a Mr. Mahoney, a Fiſhmonger, at Canterbury; I told him I did not: if he had pronounced it Mahon, I ſhould have known it; he then aſked me whether I knew Mr. Claris, a Stationer, there? I ſaid yes: he ſaid he was recommended to my houſe by Claris. He then aſked me if I knew Foreman or Appleton of Whitſtable? I aſked him which of the Appleton's, for there were ſeveral? He ſaid the one that had got a veſſel; I told him that that Appleton was at Chatham; he ſaid he was going to Canterbury; he aſked me if I,

thought

thought he could get a veſſel to go on the other ſide; I ſuppoſed he meant to Fluſhing; I told him I thought not, as the navigation was ſtopped.

Q. Was there an embargo at that time upon the ſhips at Fluſhing?

A. Yes; he told me he thought it was not.

Q. Did you mention any other place that he might go to?

A. Yes; I told him he might get over to Guernſey, and he ſaid that would not do; he might be as well where he was. I aſked him then if I could not ſend for ſome maſter of a veſſel; I told him I would ſend for Foreman, and went out for that purpoſe.

Q. Did Foreman keep a veſſel?

A. He has part of ſome veſſels which belong to the Oyſter ground. I ſaw Mr. Foreman near my own door; I told him there was a man at my houſe wanted to go on the other ſide; I told him I did not much like him——

Mr. Dallas. You muſt not ſtate any thing you ſaid to Foreman when the priſoner Binns was not preſent.

Mr. Garrow. Did you introduce him to Binns?

A. I did.

Q. What paſſed?

A. I left him alone with Binns.

Q. Did Binns ſtay there and dine?

A. Yes, he had ſome oyſters, and went out afterwards, and he told me he ſhould return in two hours. I aſked him if he had got a ſatisfactory anſwer from Mr. Foreman, when Foreman left him, he ſaid he ſhould know when Appleton came back, he was gone to his owners; he went out then; he returned again, and aſked me whether Appleton was come back; I told him no. Appleton afterwards came with Norris and Foreman; they went into a room by themſelves; I was not preſent at their converſation; I heard no diſcourſe till Binns was gone.

Q. You muſt not ſtate what they ſaid after Binns was gone. Had you any further diſcourſe with Binns?

A. No.

Q. When did Binns quit your houſe?

A. He

A. He went away about one o'clock, and left them there.

Q. Are you ſure this is the ſame perſon?

A. I am.

William Kitchingham,

Croſs-Examined by Mr. Dallas.

Q. You do not know what paſſed in the room between Norris and Appleton?

A. No further than carrying in liquor, but I did not ſtay in the room.

Edward Appleton. (Sworn.)

Examined by Mr. Fielding.

Q. Do you know the perſons of any of the priſoners?

A. Yes; the middle one, Binns.

Q. Did you ſee him at Whitſtable on the 23d of February?

A. Yes.

Q. What time of day was it?

A. Between twelve and one o'clock, when I firſt ſaw him.

Q. At what houſe did you ſee him?

A. At the Duke of Cumberland.

Q. How came you to ſee him?

A. I went to him there.

Q. Was any body in company with him when you went into the room?

A. No; Foreman and I went in together; it was between twelve and one.

Q. What was ſaid when you and Foreman went into the room?

A. He addreſſed himſelf to me, and aſked me what he ſhould give me to take him acroſs the water. I told him the times were particular, and there was an embargo in all the ports, and I could not engage till I had ſeen my owners.

Q. When you firſt went into the room, was there any converſation about you or Foreman, who you were?

A. No.

Q. Then upon your making this obſervation, in anſwer to his queſtion, what more paſſed between you?

A. He

A. He aſked me ſeveral times what he ſhould give me; I told him I could not engage with him till I ſaw my owner; I would go to Herne Bay for that purpoſe, and would be back in two hours.

Q. How far is Herne Bay?

A. About five miles; we parted; after I got out of the door, he aſked me again how much he ſhould give me for taking him acroſs; I told him I could not give him an anſwer till I had ſeen my owner.

Q. The queſtion was aſked you again when you were going out of the room; you ſaid it was anſwering no purpoſe talking about it till you had ſeen your owner?

A. Yes.

Q. Did Foreman ſay any thing to him while you were there?

A. Yes; but I do not recollect what Foreman ſaid.

Q. Do you recollect any queſtion that he aſked of Foreman?

A. No, not in particular.

Q. Was any thing more ſaid at the door when you were going away than what you have related?

A. No.

Q. Did you leave him at the houſe?

A. Not at the houſe; I went to Mr. Norris my owner.

Q. When you had ſeen Mr. Norris, did you and Mr. Norris ſee Binns again?

A. Yes.

Q. When was that?

A. About four in the afternoon.

Q. Was it at the ſame houſe you had ſeen him at before?

A. Yes.

Q. Was Foreman in company with you at that time?

A. Yes.

Q. Then you were all four, Norris, Foreman, Binns, and you, in a room together?

A. Yes.

Q. Now relate what paſſed at that time. Did he begin the converſation with you or you with him?

A. The firſt converſation, I believe, was between Norris and

and Binns; he aſked Mr. Norris firſt what he ſhould give him to hire his veſſel to carry him acroſs the water to Fluſhing, Dunkirk, or Calais?

Q. You had told him before that Norris was your owner; did he know that the man you brought with you was Norris?

A. I told him ſo.

Q. Now tell my Lord and the Jury particularly what he ſaid to Norris?

A. Norris ſaid it was hazardous and a great expence, the veſſel being ſtopped, and ſo on.

Q. Did he ſay any thing to Norris before he ſaid that?

A. He aſked him what he ſhould give him to carry him acroſs the water to Fluſhing, Dunkirk, Calais, or Havre?—Mr. Norris ſaid he could not think about letting his veſſel go without he had ſecurity for her. He aſked him the value of the veſſel, and Binns called himſelf Williams at that time; Norris aſked three hundred guineas; Binns aſked did he take him for a child, to aſk any ſuch ſum as that; and there were ſome words between Mr. Norris and Mr. Binns; they agreed for 150l. for the paſſage to Fluſhing, and that if the veſſel was brought ſafe back, he would pay a hundred inſtead of a hundred and fifty. Then Binns aſked when ſhe would be ready? Norris ſaid, She is ready now, I was juſt going to ſend her away for ſome oyſters. Binns ſaid, It don't matter whether I bring three, four, or half a dozen. I anſwered, It is no matter how many you bring; when you come I ſhall be ready. Then he told me he ſhould be down again on Sunday; I told him I thought he could not be back by Sunday. He ſaid, why not? this was Friday night, he could be down again by Monday.

Q. Did he ſay he was going up to town then?

A. Yes, and meant to be down on Sunday; and I ſaw no more of him till I ſaw him a priſoner at Canterbury.

Q. Did Norris hold any more converſation with him than what you have ſtated?

A. No.

Q. Was any mention made of any ſecurity for this boat?

A. Binns ſaid he would wiſh to ſecure the money in the

hands of Mr. Claris at Canterbury; Norris said he would wish to have the money in the bank at Canterbury; Mr. Binns said the money was as well in the bank at London as in the bank at Canterbury; he would rather have it at the bank at London than the bank at Canterbury; he did not want all the country to know all his business. I said there was no call for it; that so much money might be put in the bank at Canterbury, and the people not know the business neither.

Q. Was there or not any agreement made?

A. Yes, there was an agreement.

Q. What was the agreement?

A. Three hundred guineas for the security of the vessel, a hundred and fifty pound for the passage, if they came back directly, and if they took a cargo back a hundred pound for carrying them there; then I left him, and saw him no more till I saw him in custody.

Mr. Justice Buller. Was it at last agreed that the three hundred pound should be lodged in the Bank at Canterbury?

A. Yes.

John Foreman. (Sworn.)

Examined by Mr. Attorney General.

Q. What are you?

A. A Seaman.

Q. Do you remember seeing any of the persons that are now at the bar, upon Friday the 23d of February last?

A. I know none of them but Mr. Binns; he was along with me.

Q. Did he come to you upon any business?

A. Yes; he told me he was recommended to me by Mr. Mahoney, of Canterbury; he enquired of me for one Mr. Appleton; I asked him which? there were several Appletons; he said he did not rightly know, but he thought his name was Thomas Appleton.

Q. Did he tell you what he wanted?

A. I told him Thomas Appleton was up at Chatham with his vessel, which was repairing at the Carpenter's.

Q. Did he tell you after that what he wanted?

A. He asked me then if I knew one Mr. Mahoney? I told

him no, I knew no ſuch man; I aſked him What is he? He ſaid, He is a Fiſhmonger, and ſells oyſters. Oh! ſaid I, I know who you mean; that is Mr. Mahon.

Q. You were puzzled, hearing him called Mahoney, inſtead of Mahon?

A. Yes.

Q. What further paſſed between you?

A. Then he aſked me if he could get a veſſel to go on the other ſide. I wanted to know where; he ſaid to Fluſhing; I told him no; there was an embargo laid, and I did not think it was poſſible to get the veſſel away from there again. He told me he thought he could.

Q. After he told you he could get it away, what further paſſed?

A. Then he aſked me whether he could go to France? whether Dunkirk or Fluſhing was nigheſt? I told him Dunkirk.

Q. Did he mention any other places?

A. Yes, he mentioned Calais and Havre de Grace; Havre, as we call it. He aſked me which was the nigheſt port in France to our place? I told him Calais; he ſaid he had rather be in France than Fluſhing, becauſe he was better acquainted there than at Fluſhing.

Q. Had you any converſation how long you were to ſtop in France?

A. I ſent to Mr. Norris, who was the owner of the veſſel, about the veſſel.

Q. Did Norris come up to you?

A. Yes.

Q. What paſſed when Norris came up between Norris and Binns?

A. When he came up we went into the ſign of the Red Lion.

Q. And Norris and Edward Appleton were with you?

A. Yes; when we came there, I ſaid, Here is a man wants to go on the other ſide.

Q. The priſoner was not at the Red Lion?

A. No.

Q. Norris, Appleton, and you, had ſome talk at the Red Lion;

Lion; now we will not trouble you to ſtate that; but after you had had that converſation, you went and ſaw Mr. Binns?

A. Yes.

Q. Where?

A. At Kitchingham's, the Duke of Cumberland.

Q. What paſſed there between Binns and any of theſe people?

A. He agreed to give a hundred and fifty pound for the veſſel to go over, and one hundred pound a month for three months in caſe the embargo was not taken off, in caſe the ſhip ſhould be ſtopped; that is all I know of the matter.

Q. Was there any talk in what Bank this money was to be placed?

A. He was to leave it in Mr. Claris's hand.

Q. Who ſaid that?

A. Mr. Binns wanted to leave it in Mr. Claris's hand.

Q. Was there any objection made to that?

A. No, not to that; Mr. Norris ſaid he did not care much about it; he would as lief have it there as kept in the Bank.

Q. There was a talk about the Canterbury Bank?

A. Yes.

Q. Was there any talk about what number of people were to go over?

A. Yes; he aſked me whether the veſſel could carry three or four more perſons beſides himſelf, and a few trunks and boxes; I told him there could be no objection, I dared to ſay, to that.

Q. Was the veſſel to carry any cargo if ſhe went abroad?

A. She was not to carry any cargo there

Q. Was ſhe to bring any *crop* back again?

A. If ſhe got any freight back, ſhe was to be freighted directly, and then it was to be but a hundred and thirty pound in the room of a hundred and fifty pound, if ſhe came back directly, and did not ſtop, if he could have got any thing to freight her with.

Q. Did any of you let Mr. King the Officer at Whitſtable know any thing about this?

A. No, not till after they were taken; we knew what we aimed at.

Q. You ſuſpected a little, perhaps?

A. We knew what he was by his talk, to be ſure we did.

John Foreman,

Croſs-Examined by Mr. Gurney.

Q. You ſeem, from the manner of giving your evidence, to be quite an old acquaintance of the Attorney General's; you have been often in the Exchequer, have not you?

A. I don't know but I have.

Q. The next time you ſaw Mr. Binns after you ſaw him at Whitſtable, was in cuſtody at Canterbury?

A. Yes.

Q. Can you recollect ſaying to him there ſomething like this—"You thought to hang me, but now I will take care "and be even with you?"

A. I did not ſay that; it was Mr. Twopeny came to me.—

Q. I am aſking you as to what you ſaid to Mr. Binns, when he was in cuſtody at Canterbury. Upon your oath, did not you uſe thoſe words—"You thought to hang me, but I will be "even with you?"

A. No, I never ſaid any ſuch words.

Q. Did you not ſay any thing like it?

A. Mr. Twopeny aſked me to come in; I ſaid I would not go to London without I ſaw the man, to know whether it was the man or not?

Mr. Juſtice Bulier. Did you, upon any occaſion, ſay to any body that you would be even with Binns?

A. I ſaid, I will tell you what, Mr. Williams, (he went by that name then) I ſaid, Mr. Williams, you would not have minded, if I had carried you over, hanging me; but I never ſaid a word about hanging him.

Mr. Gurney. Upon your oath, you did not make uſe of the phraſe, that you would be even with him?

A. I will take my oath of it, and forty oaths.

Mr. Attorney General. You ſaid to Binns he would not have minded hanging you?

A. Yes.

Q. When you ſaw Binns at that time, did he know you, or affect not to know you?

A. He

A. He did not like to own that he knew me; I knew him.

Q. Did you tell him at that time that you knew him?

A. Yes, to be ſure I did, or I ſhould not have taken the trouble to have gone to London.

Mr. Gurney. Have you never uttered any declarations of enmity towards Binns? Have you never ſaid, at any time ſince, that if you could have got him half way over the water, you would have drowned him?

A. No.

Q. You have never ſaid that ſince you have been in this town?

A. I have not.

Q. Nor any thing to that effect?

A. No, I have never ſaid any thing at all about him.

Q. When you were here laſt time, I mean?

A. No, I never had ſuch a thought; I never ſaid a word about him.

Thomas Norris. (Sworn.)

Examined by Mr. Abbott.

Q. Where do you live?

A. At Herne Bay.

Q. How far is that from Whitſtable?

A. About five or ſix miles.

Q. Are you owner or maſter of a veſſel?

A. Part owner of a veſſel.

Q. Do you remember being ſent for to go to Whitſtable on Friday morning the 23d of February?

A. Yes.

Q. Did you ſee either of thoſe gentlemen at Whitſtable?

A. Yes, I ſaw that gentleman in the middle (Binns.)

Q. What name did he call himſelf by then?

A. He did not call himſelf by name; he only mentioned, before we parted, "Then I, William Williams, will depoſit ſo much money in the hands of the Banker, for the ſecurity of you."

Q. Who went with you when you went to him?

A. John Foreman and Edward Appleton.

Q. The two witneſſes that have been juſt examined?

A. Not a great deal, the time was ſhort.

Q. How long might it laſt altogether?

A. I was not more than an hour in his company.

Q. You had never been in his company before, nor have ſince?

A. No.

Q. In the courſe of that converſation before any thing was ſaid about depoſiting the three hundred pounds, did you not underſtand that Mr. Binns was not himſelf going in the veſſel, that he wanted it for ſome friends?

A. He ſaid for himſelf.

Q. Yes, originally, but at laſt he told you he would return with the veſſel, and it would not be detained above three hours?

A. Yes.

Robert Campbell. (Sworn.)

Examined by Mr. Garrow.

Q. You are I believe a pilot at Deal?

A. I am.

Q. Do you remember, on Saturday the 24th of February, any perſon calling upon you and producing this letter from Claris to you?

A. It was brought to me by that perſon, (Binns), on Saturday the 24th of February.

Q. At what time of day was it that he came to you?

A. Nearly at noon.

Q. Did you open the letter and read it?

A. I did.

Q. Were you acquainted with Clio Rickman?

A. I was.

Q. Upon reading the letter, what did you ſay to Mr. Binns, by what name did you addreſs him?

A. By the name of Williams; I aſked him his buſineſs, he told me that he wiſhed to get a paſſage to Fluſhing; I told him I thought it was at preſent impoſſible, as there was an embargo laid at Fluſhing.

Q. Did you add any thing more?

A. I did;

A. I did not aſk him any reaſon, nor he did not give any; he ſaid that the veſſel would not be detained more than three hours; that he ſhould return inſtantly in her if he went to either of the ports.

Q. Did he ſay how many people were to go?

A. I will tell you preſently; Mr. Appleton, who was maſter of the veſſel, objected to going to either of thoſe ports, he ſaid he was not capable of taking the veſſel to either of the places except Fluſhing; he ſaid, if ſhe goes to Fluſhing what will you have provided ſhe brings back a *crop*; I ſaid, if ſhe brings any thing back I will have a hundred pound, which was agreed upon; then he aſked when the veſſel would be ready for ſea, I told him ſhe would be ready at any time, for ſhe was then ready to go for a freight of oyſters; he ſaid he thought he ſhould be ready by Sunday, and it ended by his ſaying, I, William Williams depoſit this money for your ſecurity in the Canterbury bank: then he took his leave of us.

Q. You mentioned juſt now you would tell us by and by ſomething that was ſaid, as to how many people were to go with him?

A. He ſaid, would it make any difference in the price reſpecting the quantity of people that went with him; I told him no; he ſaid perhaps three or four more might go with him; I told him the veſſel might as well carry eight or ten as one when ſhe was hired.

Q. Do you recollect whether any thing was ſaid about baggage?

A. I did not hear a word ſaid about baggage.

Thomas Norris,

Croſs-Examined by Mr. Dallas.

Q. How long did this converſation laſt between you and Mr. Binns?

A. It is impoſſible for me to ſay how long it laſted, we were in two ſeparate rooms firſt; in a ſmall room by ourſelves when we were converſing about the buſineſs.

Q. I take for granted as you were making a bargain had a great deal of converſation on the ſubject.

A. Yes.

Q. What was the houſe at which you ſaw him?

A. The Duke's Head, kept by one Mr. Kitchingham.

Q. When you went in there to him, what was the ſubject of your converſation?

A. They told him I was the perſon they had ſent for reſpecting the veſſel. He aſked me if I could let him a veſſel to go to Fluſhing; I told him it was a dangerous buſineſs in war time, and that it was very probable, as they were Engliſhmen, that they would be detained as priſoners of war. As to that, he ſaid, it would be no ſuch thing, for he would inſure the veſſel to return ſafe back.

Q. What anſwer did you make to that?

A. I told him I thought it was a very hazardous thing.

Q. What did he ſay about the price?

A. I ſaid I ſhould leave it to Mr. Appleton, and if he had no objection to the price, I ſhould like to go if he undertook to do it; I told him I ſhould not like to go without I had ſecurity for the value of the veſſel; he aſked me what it was; I told him three hundred guineas, and that I ſhould further demand, if ſhe was ſtopped, a hundred pound a month for three months if ſhe was detained there; he aſked me how that could be managed; I told him I ſhould like the money to be depoſited in one of the Canterbury banks; he aſked me if it could not be as well put in the hands of one Mr. Claris, or another perſon of Canterbury, which I objected to, not knowing either of thoſe people; well, he ſaid it was not material about that, he aſked me what I would have for the paſſage, I told him a hundred and fifty pound; he got up then and aſked me if I thought he was a child, he would give no ſuch money, he ſaid that a veſſel could take a cargo from Fluſhing to make good freight for her back; I told him that was a very dangerous piece of buſineſs, ſo he then aſked if we could take him to either Dunkirk, Calais, or Havre, that he would rather go to either of thoſe places than to Fluſhing.

Q. Did he give any reaſon why he would rather go to either of thoſe places than to Fluſhing?

A. I did

A. I did, I ſaid that the only method for him to proceed would be, to go to Yarmouth, and go by the way of Hamburgh.

Q. What anſwer did Williams make to that?

A. He ſaid that the perſon was afraid of being *ſerved*.

Q. What did you underſtand by that?

A. I ſuppoſed he meant from the Exchequer.

Q. What did you ſay upon that?

A. I ſaid, then it is not yourſelf; he ſaid no, I do not know that I ſhall go myſelf.

Q. What more did you ſay about the port.

A. I told him he had better wait, that the port might be opened.

Q. What anſwer did he make to that?

A. No particular anſwer, he ſeemed to be quite entirely comfortable upon the buſineſs; I aſked him to ſit down to dinner with me; he did, and from thence we went to the Royal Oak, and he ſeemed very comfortable there.

Q. Did he put any more queſtions upon the ſubject?

A. I ſaw Mr. Hayman coming, and I knew he had uſed Fluſhing, I had ſome converſation with him.

Q. After that, had you any converſation with the priſoner, Binns, reſpecting the price?

A. He aſked me the price in my own houſe; he aſked me what I thought it might coſt him; I told him fifty or ſixty guineas; he ſaid he thought that a great deal of money; then I went with him to the Royal Oak.

Q. After your converſation with Hayman did you communicate the ſubject of it to Mr. Williams?

A. I told him that there was no likelihood of his getting acroſs then, or words to that purport.

Q. What did he ſay to that?

A. That he muſt wait.

Q. Did you ſet him and Hayman to talk together?

A. Yes.

Q. Did you hear the converſation that took place between Hayman and him after you had put them together?

A. I did.

Q. What

Q. What did you hear paſs between them?

A. It was no more than general converſation, there were a great number of people ſitting in the room.

Q. What was that converſation about?

A. I do not recollect.

Q. Do you know a perſon of the name of Mowle?

A. Yes.

Q. Did any converſation paſs between you and Williams after Hayman came in, in which the name of Mowle occurred.

A. Yes, I ſaid I might, in all probability, be out of the way when he might come down again as he promiſed; in the courſe of two or three days, he ſaid he might come down.

Q. What was to be done in caſe you were out?

A. I mentioned that he might act with Mr. Mowle the ſame as he might with me, that if a boat was going acroſs that the perſon might have a paſſage.

Q. Was any thing ſaid about trunks or baggage?

A. When that was propoſed he aſked me whether two or three trunks would be any obſtruction, or there would be any objection to that; I told him none at all.

Q. Was any thing ſaid about what ſhould be done, if the trunks ſhould come when you were out?

A. Mr. Hayman told him he might bring them to his houſe, as being an upholſterer.

Q. Did you go with Williams any where after you had been to the Royal Oak?

A. I did, I went to get a poſt chaiſe to go to Canterbury, and he ſaid he was going to London.

Q. Did he tell you how ſoon he was going to London and expected to be back again?

A. He ſaid he would wiſh to be at London in the morning, and would be back again in a few days.

Q. Did he aſſign any reaſon to you for wiſhing to go to London immediately?

A. No, he aſſigned no reaſon.

Lancelot

Lancelot Hayman. (Sworn.)

Examined by Mr. Adam.

Q. You are an Upholſterer and live at Deal?

A. Yes.

Q. Do you remember being at the Royal Oak, the 24th of February?

A. Yes.

Q. Was Mr. Campbell there?

A. Yes.

Q. Was either of the priſoners there?

A. Yes, Mr. Binns.

Q. What name did he go by?

A. The name of Williams.

Q. Do you remember having any converſation with him reſpecting lodging his trunks at your houſe?

A. Yes, Mr. Campbell aſked my permiſſion to let Mr. Williams, a friend of his, ſend two or three portmanteaus of clothes to my houſe, I agreed to it?

Q. Was he preſent?

A. He was.

Q. Was your addreſs taken at the time?

A. Yes.

Q. Who wrote it down?

A. I believe Mr. Barham.

Q. He was in the company at the time?

A. Yes.

Q. How was it written?

A. I believe with a pencil.

Q. Who was it given to?

A. I do not recollect.

Q. Who aſked for your addreſs?

A. Mr. Binns.

Q. Then it was written for him by Mr. Barham?

A. Yes.

Q. Do you remember ſeeing the priſoner at any other time?

A. I ſaw him on the Monday evening following.

Q. Was he alone then, or had he any body with him?

A. Alone.

Q. Where

Q. Where did you ſee him that evening?

A. At the Royal Oak again.

Q. What paſſed between you and him then?

A. Mr. Campbell informed the priſoner on the 24th, that he was going to London, and he aſked me if Mr. Campbell had returned from London, I told him I did not know, but I would enquire the next morning, which I did.

Q. Did any thing more paſs that evening between you and the priſoner?

A. Not that I recollect.

Q. Did you ſee him next morning?

A. I informed him that Mr. Campbell was not at home,

Q. This was upon Monday the 26th of February?

A. Yes.

Q. Did you go to any body elſe?

A. I did not.

Q. Do you remember anything paſſing between you and Mr. Binns reſpecting Mr. Mowle?

A. On Saturday the 24th, when Mr. Campbell informed the priſoner he was going out of town, he recommended him to Mr. Mowle, I informed him on Tueſday morning following, that Mr. Mowle was at home, and that Mr. Campbell was not.

Q. Did you go with him to Mr. Mowle?

A. I did not.

Q. Where did you go with him?

A. No where, I ſaw him at the Three Kings at Deal.

Q. Who was with him when you ſaw him there?

A. I do not know, there was a ſecond perſon in the room.

Q. Look at the priſoners again, do you ſee that ſecond perſon?

A. Not there to my knowledge, there was a ſecond perſon in the room, but I did not ſee his face, when I entered the room the ſecond gentleman was ſtanding with his face towards the fire.

Q. The ſecond gentleman was a ſtranger to you?

A. Totally.

Q. This was at the Three Kings?

A. Yes,

A. Yes, on Tueſday morning.

Q. How was the gentleman dreſſed, who ſtood with his face to the fire?

A. He had a long ſtraight drab coloured coat on, the other part of his dreſs I cannot ſpeak to.

Q. Was it a great coat?

A. I do not recollect.

Q. Was it a coat like any of theſe that lie upon the table?

Mr. Dallas. He has ſaid he does not recollect.

A. I do not know the make of the coat, but it was a coat ſomething about that colour, and it was nearly of that kind.

Q. Did you attend to the cut of that perſon's hair?

A. I did not.

Q. Did you return to your ſhop from the Three Kings?

A. I did.

Q. Did you ſee any thing more of Mr. Williams, after that?

A. I did on the Tueſday morning after I informed him Mr. Mowle was at home, Mr. Binns met Mr. Mowle by the corner of my ſhop, and there a converſation took place reſpecting the poſſibility of providing a boat.

Q. Did you hear that converſation?

A. I did, Mr. Mowle told Mr. Binns he thought it was impracticable.

Q. What paſſed between Binns and him in your hearing?

A. Mr. Binns ſaid to Mr. Mowle he wanted a paſſage to Fluſhing for two or three friends, Mr. Mowle ſaid he did not know of any poſſibility of going, he gave for reaſon that he knew of no conveyance, I do not recollect that he gave any other reaſon.

Q. Did Mr. Binns ſay why he wiſhed to hire a veſſel to go to Fluſhing?

A. He ſaid he wanted to get a conveyance for two or three friends, but that he himſelf was not going.

Q. Where did he ſay he wanted to go to?

A. The firſt place was Fluſhing, I believe a ſecond place named was Calais.

Q. Any other place?

A. None

A. None that I heard—Mowle anſwered the ſame as before, that he knew of no fit conveyance.

Q. What did Binns ſay to that?

A. I don't remember that he made any reply.

Q. Did he mention any other place that he was going to from Deal?

A. None that I heard.

Q. Did he ſay any thing about his baggage, or any thing of that kind?

A. Nothing more than I have before obſerved, that I gave my conſent for three or four trunks being ſent to my ſhop.

Q. Did he ſay where they were to come from?

A. I did not hear that.

Q. Did he, before he parted with you, ſay where he was going to in Kent?

A. Not that I remember.

Q. Do you know what time he left Deal upon the Tueſday?

A. It was about noon that this converſation ended by my ſhop with Mr. Mowle.

Q. Did he ſay any thing to you before he left your ſhop, of where he was going to, after he ſhould leave Deal?

A. I do not remember his mentioning any place—He left me, and I ſaw no more of him.

Thomas Barham. (Sworn.)

Examined by Mr. Garrow.

Q. Are you of any profeſſion at Deal?

A. A Grocer.

Q. Do you recollect upon Saturday the 24th of February laſt, being preſent with Mr. Hayman, and any other perſon, when you wrote any direction?

A. Yes.

Q. Do you ſee any body here that was in company with them?

A. Mr. Binns was in company then.

Q. Do you know him by that name?

A. He was introduced to me by the name of Williams, but he

he declared before he left the company that his name was Binns.—The company was originally a public one, but after a ſhort ſpace, the company had one by one left the room, excepting Mr. Binns, Mr. Campbell, Mr. Hayman, and myſelf. Mr. Campbell introduced Mr. Binns to me by the name of Williams, as a friend of his, ſaying he was a man in diſtreſs, and wanted to go on the other ſide of the water.—I do not immediately recollect what reply I made upon that.

Q. Did Mr. Binns make any reply to that, or correct that ſtatement?

A. Not immediately.—Fluſhing ſeemed to be the object; Mr. Campbell raiſed an objection to that, and ſaid Calais was the propereſt place.

Q. What objection did he ſtate to Fluſhing?

A. I do not immediately recollect, whether it was becauſe it was not ſo handy for the paſſage as Calais; but I do not recollect that any particular reaſon was aſſigned: the converſation was in general terms about the probability of getting a boat for the purpoſe of going acroſs the water, when the terms were mentioned, I think a ſum of money was mentioned by Mr. Campbell, as neceſſary for that purpoſe, but he ſaid he could not effect this purpoſe himſelf, but muſt have the aſſiſtance of others, of courſe; and thoſe friends that he meant to employ in that expedition, were not then at home; mentioning Mr. Mowle, and one or two others, who, being pilots, were up with ſhips in their profeſſion, but would return on Monday, Tueſday, or Wedneſday, and probably would do what he required of them; but he could ſay nothing more than that there was a probability of his getting over to ſome place.

Q. When Calais was mentioned, did Williams make any objection to Calais?

A. I do not recollect that he did.—Mr. Campbell left the room ſometime in the courſe of the converſation; and Mr. Binns then declared his name ſomething in theſe words, he ſaid,—"I think it may be neceſſary I ſhould inform you who "I am, my name is John Binns, perhaps you may recollect "my name."—I did recollect it then, and nothing further

took

took place, excepting that Mr. Binns, in the courſe of converſation, declared he was not certain he ſhould go himſelf.

Q. Who was to go then?

A. He mentioned no names, but for three or four friends.—I believe he repeated that more than once or twice.

Q. Was there any converſation about luggage?

A. Mr. Binns aſked Campbell whether a few trunks would be any incumberance to the boat or objection, he ſaid not at all; Binns aſked for an addreſs of where he might direct the luggage. Whether he might ſend them to Campbell's—Campbell ſaid he might, by all means, but as his was a private houſe and he probably might be out upon his profeſſion, if Hayman would take them in for him, being a man in public buſineſs, it might be more convenient—Mr. Hayman agreed to do it, Binns pulled out a book to ſet down his addreſs, Hayman was called out of the houſe at that moment, and he deſired me to put down his name for that purpoſe, which I did.

Q. Look at this, is this the addreſs you wrote, and which you delivered to Binns.

A. No I do not believe this is my writing. I did write Hayman's addreſs, on a leaf of a pocket-book.

Q. Of whoſe pocket-book.

A. On a leaf of a pocket-book of Binns's, being written in pencil, I am not able to ſpeak to that; I cannot believe this to be my hand-writing.

Q. Look at the addreſs in this pocket-book?

A. This is my hand-writing, I wrote it in this pocket-book, which Binns produced and delivered it to him.

Mr. Juſtice Buller. What is that pocket-book?

Mr. Garrow. Binns's pocket-book.—Did you ſtate what paſſed upon the ſubject of the price?

A. I think the ſum of 60l. was mentioned, but I do not recollect that it was a poſitive agreement.

Mr. Garrow. We will read firſt the direction in Binns's pocket-book, written by the preſent witneſs.

[*It was read.*]

" Mr. L. Hayman, jun.

" Middle Street."

Mr. Garrow. We will now read this paper proved to have been found in Mr. O'Connor's purſe.

[*It was read.*]

" Mr. L. Hayman, jun.

" Auctioneer,

" Middle Street,

" Deal."

James Elliot. (Sworn.)

Examined by Mr. Fielding.

Q. Do you keep the Three King's Hotel, in Deal?

A. Yes.

Q. Look at the gentlemen at the bar, do you know the perſons of any of them?

A. Two of them.

Q. Which?

A. Mr. O'Connor, and Mr. Binns.

Q. Did you ſee them, or either of them, at Deal, on the 26th of February?

A. Yes, I ſaw them both.

Q. Were they in company together, or not?

A. They were in company together.

Q. At what time did they come to your houſe?

A. They came together to my houſe, on the 25th of February, at ſix in the evening.

Q. How did they come?

A. On foot.

Q. Firſt of all deſcribe, if your recollection will ſerve, how they were dreſſed?

A. Mr. O'Connor was dreſſed in a ſtraight drab coloured coat, high up in the collar, with metal buttons, I think rather tarniſhed, cut ſtraight down the thighs.

Q. What was the other part of his dreſs?

A. I do not recollect, he was buttoned cloſe up.

Q. How was Binns dreſſed?

A. I think he had a brown great coat on, with a black collar, rather rough.

Q. You ſhewed them into a room, I preſume?

A. The waiter did.

Q. How long did they continue at your houſe?

A. Till the following morning about ten or eleven o'clock.

Q. Had you any converſation with them during the evening?

A. None.

Q. Did they ſleep at your houſe?

A. Yes.

Q. Did they bring any baggage, or clothes with them?

A. None.

Q. Did any people from Deal viſit them at your houſe?

A. Yes, Mr. Hayman.

Q. You were not in company with them at the time Mr. Hayman viſited them, were you?

A. I was not.

Q. Had you any converſation with them, during the time they ſtaid in your houſe?

A. Never, no further than waiting upon them.

Q. What time was it that they left your houſe?

A. About ten, or eleven o'clock.

Q. Did you ſee them after that time?

A. I did not, they turned out to the left, and walked down the ſtreet.

Q. You have no doubt as to their perſons?

A. None.

Jeremiah Mowle. (Sworn.)

Examined by Mr. Abbott.

Q. What are you, and where do you live?

A. I am a pilot, and live at Deal.

Q. Do you know Mr. Hayman, of Deal?

A. Yes.

Q. Do you remember being with him in the evening of Monday the 26th of February laſt?

A. No

A. No, not on the 26th, it was Tueſday the 27th, in the forenoon.

Q. Do you know the perſon of that ſtranger, whom you then met?

A. Yes, it is the man who ſtands in the middle (Binns.)

Q. Did he call himſelf by any name then that you heard?

A. Not to me, I was told his name was Williams, but not till after Mr. Campbell came from London.

Q. Where did Hayman and you go together?

A. Into a room at Hayman's houſe.

Q. When you came there, what was ſaid?

A. Binns requeſted a paſſage for Fluſhing.

Q. What anſwer did you give him?

A. I told him there was not any probability at preſent, it might be a month or two months, I could not in fact tell when there might be. He ſaid could not he go to Calais.—I told him no one there would run the riſk of going to Calais.—I before this had obſerved that the boat or the party might be detained—he ſaid he did not conceive there was any danger of that.

Q. Did he ſay where he was going from Deal?

A. He ſaid he was going to Margate.

Q. Did he mention for what purpoſe he was going to Margate?

A. He ſaid he had a portmanteau, or two portmanteaus and a ſaddle.

Q. Did he ſay what he was to have done with them?

A. No further than Hayman's telling him he was welcome to ſend them to his houſe, that he would put them into his warehouſe, and take care of them.

Q. Was any thing ſaid about the price, in your preſence?

A. Not a word.

Q. Was any thing further ſaid upon the ſubject?

A. Not another word, that was all that paſſed, the man then went away.

Q. Did Hayman go with him?

A. No, he went away by himſelf.

William Jones. (Sworn.)

Examined by Mr. Solicitor General.

Q. You are, I believe, a waiter at the Three Kings at Deal?

A. Yes.

Q. Do you know either of the priſoners at the bar?

A. Yes, Mr. O'Connor and Mr Binns.

Q. Do you remember their being at your maſter's houſe?

A. Yes.

Q. When?

A. The 26th of February.

Q. What day of the week was that?

A. Monday.

Q. What time did they come there?

A. In the evening, between five and ſix, to the beſt of my knowledge—I ſhewed them into a room.

Q. Did you ſee them when they came in?

A. No, I did not, but I attended on them.

Q. How long did they ſtay there?

A. That night, and part of the next morning.

Q. What time did they go away?

A. Between the hours of ten and eleven, as near as I can recollect.

Q. Did they ſay where they were going?

A. No.

Q. How did they go away?

A. On foot.

Q. Look at that book, have you ſeen it before?

A. Yes, it was left in the room they ſat in.

Q. Was any thing ſaid to you about that book?

A. One of the gentlemen told me to take care of the book, they ſhould be back again preſently.

Q. Did they ever return?

A. No.

Mr.

Mr. Hugh Bell. (Sworn.)

Examined by Mr. Attorney-General.

Q. You live, I believe, in Charterhouſe-ſquare?

A. Yes.

Q. You are a merchant in the city of London?

A. Yes.

Q. Do you know the gentleman at the bar, Mr. O'Connor?

A. I have known him for a long time paſt.

Q. Do you know the perſon who ſits next to him (O'Coigly)?

A. Yes.

Q. Do you know any other of the priſoners?

A. I know Mr. O'Connor's ſervant (Leary), and I have ſeen Mr. Binns once or twice, but have no intimacy with him.

Q. Where did you ſee Mr. Binns?

A. Once or twice at my own houſe.

Q. Did he come there to call upon you, or upon any body elſe?

A. He came certainly to call upon Mr. O'Connor.

Q. Was Mr. O'Connor in the habit of dining occaſionally with you?

A. Yes, frequently.

Q. And ſleeping at your houſe?

A. Occaſionally ſleeping at my houſe.

Q. Did he dine with you on Saturday the 24th of February laſt?

A. To the beſt of my recollection he did.

Q. Did any other of the priſoners dine with you upon that day?

A. I do not recollect that any other of them dined with me on that day.

Q. Did a perſon of the name of Captain Jones dine with you on that day?

A. He might have, but whether he did or not I do not recollect; he dined at my table twice, but whether that was one of the days I do not recollect.

Q. How long is it ſince you have forgot that?

A. I do not know that I have forgot it—I did not ſay that he did not, but I do not poſitively recollect that he did—if I recollected accurately that he had, I ſhould ſay ſo.

Q. Did he dine with you within that week?

A. I rather think he did, he dined twice with me I know.

Q. In company with Mr. O'Connor?

A. In company with Mr. O'Connor.

Q. Was he introduced to you by Mr. O'Connor?

A. Certainly, only by Mr. O'Connor.

Q. By what name was he introduced to you?

A. By the name of Captain Jones.

Q. Did Mr. O'Connor tell you that his name was Captain Jones?

A. To the beſt of my recollection he did.

Q. Have you any idea that any body elſe ever told you that his name was Captain Jones?

A. No.

Q. Have you any doubt that Mr. O'Connor told you his name was Captain Jones?

A. I have no doubt but that was the name by which I knew him.

Q. And they dined twice together with you, you ſay?

A. They did ſo.

Q. How lately, before Mr. O'Connor left London, did he dine with you?

A. I before ſaid, that I cannot be accurate whether it was Saturday the 24th.

Q. Was it upon a Saturday?

A. I cannot recollect, becauſe the whole of Captain Jones's calling at my houſe did not exceed ten or eleven days.

Q. He did call in the courſe of the ten or eleven days before Mr. O'Connor left you?

A. Yes, he did.

Q. How often might he call at your houſe in the courſe of thoſe ten or eleven days.

A. I cannot ſay, becauſe I am very much abroad.

Q. I am not aſking you what you do not know, but what you do know of your own knowledge?

A. To

A. To my knowledge he called four or five times.

Q. Did he call upon you, or upon Mr. O'Connor?

A. Upon Mr. O'Connor.

Q. How often did he dine in company with Mr. O'Connor at your houſe?

A. Twice.

Q. Do you mean to tell the Jury that you cannot recollect in what part of thoſe ten days it was theſe two dinners were, whether the beginning, the middle, or the end?

A. The firſt time he dined was the firſt time I ſaw him—the ſecond time I do not know whether it was the laſt day or not.

Q. Will you take upon yourſelf to ſay it was in the middle of the time?

A. I will not.

Q. Will you take upon yourſelf to ſay it was not upon the laſt day?

A. I will not, I ſaid ſo before.

Q. Did you direct any letter, at the inſtance of Mr. O'Connor, upon Saturday the 24th?

A. Not that I recollect.

Q. Look at that direction, is not that your hand-writing?

A. It is.

Q. At whoſe inſtance did you write that addreſs upon that letter?

A. That I cannot tell.

Q. Mr. Bell, you are a merchant in Charterhouſe-ſquare—you have directed a letter, which bears date the 24th of February, to Mr. William Williams—do you mean to ſay you cannot tell at whoſe inſtance you directed it?

A. I do, for I have no recollection of directing it at all, nor ſhould I know that I ever had directed it, but that I know my own hand-writing.

Q. You mean to ſwear, that if it was not for its being your own hand-writing, you ſhould have no recollection that you ever directed it?

A. Poſitively.

Q. You do ſwear it is your hand-writing, and that you did direct it?

 A. Yes,

A. Yes, from its being my hand-writing.

Q. Have you any correſpondent of that name?

A. None.

Q. Why, Mr. Bell, have you never ſaid at whoſe inſtance you directed it?

A. I never have.

Q. You, however, did direct that letter?

A. I directed it.

Q. Pray, Mr. Bell, do you know a perſon of the name of William Williams?

A. I do not.

Q. Do you mean to ſay, then, that you addreſſed that Letter "Mr. William Williams, Fountain Inn, Canterbury," ſo lately as February, 1798, but that you have not the leaſt recollection how you came to addreſs that letter?

A. I direct a great many letters every day of my life, and if this letter, or any other, was brought to me by a ſervant, or any body elſe, to direct, I ſhould do it with a great deal of pleaſure, and it would make no impreſſion, probably, upon me—in this caſe it has not.

Q. Mr. O'Connor left your houſe on Sunday morning?

A. I did not ſee him on Sunday morning.

Q. Did not he ſleep at your houſe on Saturday night?

A. I believe he did.

Q. Do not you know he did?

A. I was a-bed before him.

Q. Have you any doubt about it?

A. No.

Q. Upon your oath, do you know where Mr. O'Connor was going from your houſe?

A. I underſtood that he was going into Kent.

Q. I aſk you if you did not know it from Mr. O'Connor himſelf?

A. Yes, Mr. O'Connor told me he was going into Kent.

Q. Why did not you ſay ſo then?

A. I think the word *underſtood* was ſufficiently expreſſive of that, becauſe I did not accompany Mr. O'Connor.

Q. Did Mr. O'Connor's baggage go from your houſe?

A. I believe

A. I believe it did.

Q. How was it directed?

A. I do not know.

Q. Did any baggage go from your houſe directed "Colonel Morris?"

A. Not to my knowledge.

Q. You admit, however, that that direction is your handwriting?

A. Yes.

Q. Who is it directed to?

A. "Mr. William Williams, Fountain-Inn, St. Margaret-"ſtreet, Canterbury."

Q. Had you any letter from Mr. O'Connor between the Sunday and the Wedneſday?

A. To the beſt of my recollection I had a letter from Kent.

Q. What is become of it?

A. I have it not.

Q. Do you know what became of it?

A. I believe I deſtroyed it—the purpoſe of the letter was ſerved by my reading it.

Q. Is it deſtroyed?

A. It is.

Q. If it is deſtroyed, what name was at the bottom of it?

A. James Wallace.

Q. How do you know that that letter, which was ſigned James Wallis, was a letter from Mr. O'Connor?

A. I only concluded ſo from the ſubject of it, and the matter of it.

Q. Did Mr. O'Connor tell you, before he left London, that he would write to you?

A. I really do not recollect that he did; I might wiſh to hear from Mr. O'Connor, but I do not recollect that he promiſed to write to me.

Q. Did you deſtroy that letter yourſelf, or give it to any body elſe to deſtroy?

A. The letter was deſtroyed before I knew of Mr. O'Connor's being taken into cuſtody

Q. Did

Q. Did you deſtroy it yourſelf, or did you give it to any body elſe to deſtroy?

A. I deſtroyed the letter myſelf.

Q. Why did you deſtroy it?

A. Becauſe the letter was of no moment, of no uſe, it merely informed me of his being in Kent.

Mr. Plumer. What ſignifies what his reaſon was, that is no evidence againſt us.

Mr. Attorney-General. He ſays he received a letter between the Sunday and the Wedneſday, which letter was ſigned James Wallis, which he knows to be from the priſoner, and which he deſtroyed.

Mr. Juſtice Buller. Did you know any perſon of the name of James Wallis?

A. No; I know no other perſon of that name but a ſervant of mine.

Mr. Juſtice Buller. You do not know whether either of the priſoners went by the name of James Wallis?

A. No.

Mr. Attorney-General. Then how came you to ſay that that letter ſigned James Wallis came from Mr. O'Connor?

A. I knew by the ſubject and the matter of it.

Q. Did you know the hand-writing of that letter which you received, ſigned James Wallis, when you received it?

A. I was ſo ſatisfied with the ſubject, and the matter, that the hand-writing made no ſort of impreſſion upon my mind.

Q. Have you any doubt whoſe hand-writing it was?

Mr. Plumer. I conceive he muſt ſtate facts, not whether he apprehended it was his hand-writing or not.

Mr. Juſtice Buller. The letter is deſtroyed, he may ſtate his reaſons for thinking it Mr. O'Connor's hand-writing.

Mr. Dallas. Even if the letter is deſtroyed, I ſubmit that he is not at liberty to ſtate this, I admit that he is at liberty to ſtate the contents of that letter, we have got the contents of the letter.

Mr. Juſtice Buller. He has not ſtated, in words, what the contents were, but he has told you, from the ſubject of it, that he had no doubt it came from Mr. O'Connor.

Mr.

Mr. Plumer. That is merely matter of opinion—I conceive that, ſaying he has no doubt of it, is not evidence; he may be convinced in his own mind, and have an opinion reſpecting a matter of fact, but that is not evidence.

Mr. Attorney-General. He ſays, from the ſubject and the matter of it, he has no doubt that it came from the priſoner.

Mr. Plumer. That is nothing more than ſaying, that from the ſubject matter, which he does not poſſeſs your Lordſhip or the Jury of, he draws a concluſion that the letter was written by Mr. O'Connor.

Mr. Garrow. Mr. Plumer's objection is in a circle—firſt, he ſays you have not proved the contents, and therefore you cannot aſk the witneſs to it; then he ſays, you cannot aſk him to the contents without proving it to be his hand-writing.

Mr. Juſtice Lawrence. Many things, for inſtance, a converſation, may be as deciſive as the hand-writing—Mr. Plumer's objection is to aſking his concluſion, inſtead of aſking the contents of the letter, and ſo ſeeing that his concluſion is a juſt one.

Mr. Garrow. Do not we prove the hand-writing of a man every day by the witneſs having correſponded with him, the ſubject matter leading him to it?

Mr. Plumer. That is where the perſons are in the habit of correſponding.

Mr. Juſtice Buller. There is another thing which my brother Shepherd has juſt ſuggeſted; ſuppoſing the letter had been here, could the witneſs ſpeak to any thing but an opinion of its being the priſoner's hand-writing; he ſays the ſubject matter is ſuch as would convince the mind of any reaſonable man that the letter muſt have come from Mr. O'Connor—that takes it out of the objection; and if neither ſide will aſk him to the ſubject matter, it ſtands thus—that you have not traced that fact ſo far as you might; that goes to the point of what credit the Jury will give to the evidence, and not whether it ſhall be received or not.

Mr. Plumer. I ſhould make the ſame objection, if the letter had been here, to any queſtion of what his opinion is, to any concluſion he draws from the contents; he may ſtate any

facts

facts from which your Lordſhip and the Jury may draw that concluſion, but no private opinion is evidence.

Mr. Juſtice Lawrence. What is opinion with reſpect to a man's hand-writing?

Mr. Juſtice Buller. He has ſaid, that he has formed that opinion from the ſubject and the matter of the letter.

Mr. Juſtice Lawrence. From the hand-writing, and from the contents, he believed it to be Mr. O'Connor's writing—if you wiſh to ſee whether that belief is well-founded, you may get that out in croſs-examination.

Mr. Attorney-General. To whom was this letter, ſigned James Wallis, addreſſed?

A. Addreſſed to me.

Q. Did you receive it by the poſt, or in any other, and what manner?

A. It came by the poſt.

Q. You ſay you judge, by the contents of it, that it came from Mr. O'Connor, be ſo good as ſtate what the contents of it were?

A. I cannot; my recollection does not lead me to ſtate further than that he was there, and in hopes of doing the buſineſs that he went upon.

Mr. Juſtice Buller. He was there—what do you mean by there?

A. In Kent, where he wrote from.

Mr. Attorney-General. Do you recollect what poſt-town the letter came from?

A. That he was there, that he had met with a good man, to the beſt of my recollection, and that he would do the buſineſs.

Mr. Juſtice Buller. Had you had any converſation with him, before he left you, reſpecting any buſineſs which he was to tranſact in Kent?

A. Not that I recollect particularly.

Mr. Juſtice Buller. Had you any converſation with him about any buſineſs?

A. I cannot ſay that I had about any buſineſs.

Mr. Juſtice Buller. Then how came the expreſsions that he was in Kent, and in hopes of doing the buſineſs that he went upon, to bring Mr. O'Connor to your mind?

A. He mentioned in the letter that he had found a good man to do the buſineſs for him; which buſineſs I underſtood to be his deſire of getting out of the kingdom.

Mr. Juſtice Buller. Who did you underſtand that from?

A. Mr. O'Connor.

Mr. Attorney General. Leaving that ſubject, did you know the priſoner who ſits neareſt you (O'Coigly) by any other name than that of Captain Jones?

A. I did not.

Q. Mr. O'Connor had never mentioned him to you by any other name?

A. He did not till about the time of his departure; then I learned that his name was not Jones.

Q. Where did you learn that?

A. I underſtood from Mr. O'Connor that his name was not Jones.

Q. What did Mr. O'Connor ſay to you at the time you collected that underſtanding from him, that his name was not Jones?

A. To the beſt of my recollection, he mentioned that his real name was O'Coigly.

Q. Did Mr. O'Connor tell you why he uſed the name of Jones?

A. I do not recollect any preciſe cauſe, but that he was a perſon that had come from Ireland on account of the ſtate of politics in that country, and perhaps did not think it diſcreet to go by his real name, that was the only reaſon I conceived.

Q. Did he mention whether he had any other name than the names of Jones and O'Coigly?

A. No; I never heard any other.

Q. When was it that Mr. Binns called, was it within the laſt ten days?

A. Yes.

Q. Did Mr. O'Connor ſleep at your houſe at all, except within the laſt ten days?

A. Yes,

A. Yes, he did longer than before the laſt ten days; he ſlept ſometimes at my houſe, and ſometimes at the weſt end of the town.

Q. Did you happen to ſee Mr. Binns at all after Mr. O'Connor left you?

A. Yes.

Q. When was that?

A. He called upon me on the Sunday morning of Mr. O'Connor's departure, and finding that Mr. O'Connor was gone, he went away himſelf immediately.

Q. Had you any converſation with him when he called upon you?

A. No further than ſaying Mr. Connor was gone.

Q. What time in the morning did he call upon you?

A. I think about eight o'clock.

Q. Did you ſupply Mr. O'Connor with any money?

A. I did.

Q. To what amount?

A. Near to £. 400 in Louis d'ors, but Mr. O'Connor had about £. 700 altogether.

Q. Does it fall within your knowledge whether Mr. O'Connor had made any conveyance of his eſtate before?

A. No.

Q. Had you ever received a letter from any perſon before under the name of James Wallace?

A. Not that I recollect.

Q. Had you ever directed a letter before to any perſon under the name of Williams?

A. I do not recollect, I may have—perhaps I have.

Q. Have you any recollection of any ſervant of your's applying to you upon Saturday, the 24th of February, to direct ſuch a letter?

A. I have not; I may have directed a letter for what I know at my counting houſe in Alderſgate-ſtreet.

Q. Have you any recollection of any perſon applying to you at your counting-houſe in Alderſgate-ſtreet to direct ſuch a letter?

A. I have not.

Mr.

Mr. Hugh Bell,

Croſs-Examined by Mr. Plumer.

Q. You have ſaid that you have been acquainted with Mr. O'Connor ſince he came into England; when did he come into England this laſt time?

A. Early in the month of January.

Q. And left your houſe the latter end of February?

A. On the 25th of February.

Q. Do you know whether he had made any enquiries, or did he employ you to make any for him for the purpoſe of going abroad before Mr. O'Coigly came into this country?

A. Certainly he had.

Q. When was that?

A. The latter end of January, perhaps between the 25th and 28th.

Q. Did not Mr. O'Coigly come to town about the middle of February?

A. I do not know when he came to town, I never ſaw him till the middle of February, and I never ſaw him out of my own houſe.

Q. And before that time you knew Mr. O'Connor was going abroad?

A. I did.

Q. Did you yourſelf make enquiry for a veſſel for him for that purpoſe?

A. I did.

Q. For what place?

A. He wiſhed to go to Hamburgh firſt.

Q. That was, I think you ſay, the latter end of January?

A. Yes.

Q. Did you in conſequence of that endeavour to procure a veſſel for Hamburgh for him?

A. I did.

Q. What prevented your getting one?

A. There were veſſels for Hamburgh, but they were delayed, as well as I can recollect, owing to the apprehenſions that the French were very nearly getting poſſeſſion of that place, and that delayed the veſſels from ſailing.

Q. Engliſh

Q. Engliſh veſſels were afraid of going there?

A. Yes.

Q. I believe there was a time when there were ſix mails due from Hamburgh?

A. Beſides, the Engliſh veſſels for Hamburgh at that time ſailed by convoys, and a convoy had ſailed I recollect very nearly before.

Q. Do you happen to remember the circumſtance that there were at one time ſix mails due from Hamburgh?

A. I recollect there were ſeveral mails due; I do not recollect the preciſe number; I got him the bill of a ſhip and gave it him; but I underſtood one reaſon why Mr. O'Connor heſitated about going by that ſhip was the neceſsity that I told him, I believe, there was for a paſſport, which paſſport, I underſtood, from himſelf, he could not obtain, or had doubts of obtaining.

Q. Why could not he procure this paſſport?

A. I really do not know, further than that his ſituation, as a public man in Ireland, might make it difficult to obtain it here from Government.

Q. Did you know that he had recently come from Ireland in the beginning of January?

A. I did; he had called at my houſe before I ſaw him, and he called ſome two or three days after and dined with me.

Q. Did you enquire for any other veſſel beſides the Hamburgh veſſel; did you enquire for a veſſel for Embden before ever you ſaw Mr. O'Coigly?

A. Yes, before I ſaw him; for I never enquired after.

Q. Were you able to obtain one?

A. There was a veſſel for Embden, but it was to ſail very ſoon, and to the beſt of my recollection Mr. O'Connor could not be ready; it was in one, two, or three days, it was to ſail.

Q. You have been aſked, by the Attorney General, about theſe Louis d'ors—do you know whether Louis d'ors are the coin beſt for circulation upon the Continent at this time?

A. I know nothing of that fact, I believe they are in circulation.

Q. Is that a coin which would be moſt convenient for a gentleman travelling on the Continent?

A. I

A. I ſo underſtood; but I was never on the Continent myſelf?

Q. At the time you got them, was there a diſcount upon the Louis d'ors?

A. The Louis d'or appeared to me at that time, comparing the Hamburgh exchange, to be a good remittance at nineteen ſhillings?

Q. That is a profit of five per cent?

A. That depends entirely upon the ſtate of the exchange.

Q. You have been aſked about what Mr. O'Connor told you reſpecting Mr. O'Coigly; Did he not at the ſame time tell you that this gentleman was under the neceſſity of leaving Ireland, that he was a fugitive from Ireland like himſelf, and was going out of the kingdom?

A. He did ſo.

Q. Did he not alſo inform you that there were reaſons why neither that perſon nor he could ſtay in Ireland nor in England with reſpect to themſelves?

A. With reſpect to Mr. O'Coigly he did not go that length, but he did with regard to himſelf; that he left Ireland becauſe he was threatened, as he underſtood, with a ſecond impriſonment there.

Q. You told Mr. Attorney General that you underſtood Mr. O'Coigly came from Ireland on account of the ſtate of politics in that country, and did not think it diſcreet to go by his own name?

A. I did.

Q. Did you know of Mr. O'Connor's belonging to any Engliſh ſociety, or connecting himſelf in any reſpect with Engliſh politics, whilſt he was here?

A. No; I did not know the leaſt thing of the kind.

Q. Did he belong to or frequent any ſociety or club in his life?

A. Not to my knowledge.

Mr. Hugh Bell,

Re-Examined by Mr. Attorney General.

Q. Did Mr. O'Connor mention or not mention that he was going out of the country with any perſons, and whom?

A. At the time that he went into Kent, I underſtood that Mr. O'Coigly was to accompany him, that he wiſhed to do ſo; and that Mr. O'Connor had conſented.

Q. Did Mr. O'Connor inform you when Mr. O'Coigly ſailed from Ireland?

A. He never informed me any thing about Mr. O'Coigly's arrival from Ireland till I ſaw him in my own houſe.

Q. When was that?

A. About the middle of February.

Q. Had you any converſation afterwards with Mr. O'Connor; as to the time at which Mr. O'Coigly came from Ireland?

A. I underſtood he had come ſome very few days before, two or three days before, as Mr. O'Connor told me.

Q. Did Mr. O'Connor, in his converſation with you, tell you whether Mr. O'Coigly had come from Ireland, or from any other country?

A. I underſtood from Ireland.

Q. No other country was mentioned was there?

A. No other country was mentioned.

Q. You have ſpoken about the exchange at Hamburgh; do you mean to ſay that the ſtate of the exchange with Hamburgh was ſuch as to make that an advantageous bargain you made in February?

A. I ſo underſtood it.

Q. Do you know what the ſtate of exchange was at that time?

A. I do not know; but I could tell if I was at home.

Q. Was it not above thirty-ſeven?

A. I do not know preciſely the calculation I made of the intereſt of money.

Q. Has it been at leſs than thirty-ſeven for the laſt ſix months?

A. I am not much in the Hamburgh trade, or converſant with the Hamburgh exchange, but the calculation I made at the time led me to ſuppoſe Louis d'ors would be a good remittance.

Q. If the exchange was at thirty-ſeven, could it be a good remittance?

A. I

A. I think it might for a gentleman; a traveller, if he takes bills, he muſt neceſſarily have them diſcounted, and that might not be ſo convenient.

Q. That is your reaſon then for ſaying that the remittance appeared to you to be advantageous; now I aſk you, upon your credit as a merchant, do not you know that remittance by bills, when the exchange with Hamburgh is thirty-ſeven, is advantageous?

A. Valuing the Louis d'or at nineteen ſhillings, I do not know that.

Q. Do you mean to ſay you do not know that?

A. I do not; to be ſure it would require a little operation and working that I cannot go through here.

Q. How long before Mr. O'Connor left you was it that the veſſel was about to go to Embden?

A. It was early in the month of February.

Q. Do you remember the name of the veſſel?

A. No.

Q. Do you remember the maſter of the veſſel?

A. No, I do not know that I heard the name of the veſſel; ſhe was mentioned to me by a friend of mine in the city.

Q. Was not her name mentioned, nor the time of her ſailing mentioned?

A. The time of her ſailing was mentioned, and that made it not neceſſary for me to enquire the name.

Q. Who was your friend that mentioned it?

A. Mr. Cleggit.

Q. You had been employed to look out for ſuch a veſſel?

A. Mr. O'Connor had deſired me to enquire for ſuch a veſſel.

Mr. Plumer. I beg to aſk this queſtion—Did you ever hear any thing from Mr. O'Connor about any paper that he was going to take with him abroad; did you know or hear of any paper of any kind whatever?

A. Never.

Q. Did you know of any buſineſs that he was going upon with Mr. O'Coigly?

A. No buſineſs whatever.

Q. Did you know of any buſineſs they had together that they they were going about?

A. No other than to leave the country.

Mr. O'Connor. I beg to aſk a queſtion—When Mr. O'Coigly called upon me at your houſe, did there appear to be any intimacy between Mr. O'Coigly and me?

A. No; I underſtood you were totally unacquainted with him until the time you met in London.

Mr. O'Connor. Did I not tell you it was but a day or two before that I had ever ſeen him?

A. Yes.

Mr. O'Connor. Did I not mention to you that he called upon me as an Iriſhman in a diſtreſſed ſituation, and that he had come from Ireland as a perſecuted man?

A. As an Iriſhman that was under that ſort of apprehenſion for his perſonal ſafety in Ireland, that made it neceſſary for him to come here; you did ſo.

Mr. O'Connor. Do you think it was in my power———

Mr. Juſtice Buller. Do not aſk him what he thought, but aſk him to facts; you had better ſuggeſt your queſtions to your Counſel, they will put any queſtion for you.

Mr. O'Connor. Have I not told you that too many of my countrymen called upon me, and I wiſhed to avoid making acquaintance?

A. I have heard you make that obſervation.

Mr. O'Connor. Have I often told you that I was particularly cautious of forming any new acquaintances in England, eſpecially in the political line; indeed, that I was determined not?

A. To the beſt of my rocollection you have made ſuch remarks to me.

Mr. O'Connor. Did I tell you that nothing could induce me to form any ſort of connexion with any political Society in England?

A. I do not recollect theſe preciſe words, but I underſtood from you that you were determined to be very guarded in your conduct in England.

Mr. O'Connor. Had you any reaſon, from any thing you heard me ſay, to ſuppoſe that there was any ſort of intimacy between

between Mr. O'Coigly and me, that I ſhould commit myſelf in any dangerous way with Mr. O'Coigly?

A. I underſtood not, but that he was entirely a new acquaintance.

Mr. O'Connor. Do you believe that I had any other object in having Mr. O'Coigly with me, than from a good-natured motive to relieve a diſtreſſed countryman, from what I told you in confidence as a friend?

A. No motive whatever, except the deſire you might have, from good nature, to aſſiſt him.

Mr. O'Connor. I will put it ſtronger. Did I not tell you I was averſe to it?

A. Yes, you lamented it.

Mr. O'Connor. Lamented that I was grieved I had allowed Mr. O'Coigly to go with me out of the country?

A. Yes.

Mr. O'Connor. Did I aſſign any reaſon for that?

A. Yes, you aſſigned a reaſon, you was afraid Mr. O'Coigly had been very indiſcreet in mentioning your intention of going out of the country.

Mr. Juſtice Buller. Mr. O'Connor, do not you ſee how much this is at the expence of the other priſoner?

Mr. Attorney General. We will now read the letter addreſſed to Mr. William Williams.

[*It was read.*]

" Dear Friend,

" I ſet off to-morrow morning in a Whitſtable boy, and " hope to be at Whitſtable by night, if the wind is fair. *I ſhall* " *take all the parcels you ſpeak of with me.*

" Yours ſincerely,

" JAMES WALLIS.

" I get your letters.

" *London, 24th Feb.*"

Addreſſed, " Mr. William Williams,
" Fountain Inn, St. Margaret ſtreet, Canterbury."

James Morris. (Sworn.)

Examined by Mr. Garrow.

Q. You are a porter to Mr. Bell, I underſtand?

A. Yes.

Q. Do you live at his houſe in Charter-Houſe Square, or at his warehouſe in Alderſgate ſtreet?

A. At his warehouſe.

Q. Do you remember, on the 24th of February, carrying any quantity of luggage from Mr. Bell's houſe to Cheſter Quay?

A. Yes.

Q. Were they packages of this ſort that are upon the table?

A. Yes, deal boxes of this ſort.

Q. Were you aſſiſted by another perſon?

A. Yes.

Q. How were they directed?

A. I did not take notice.

Q. I obſerve ſome of theſe that are upon the table are directed "Colonel Morris;" did you obſerve how any of them were directed?

A. I did not take notice of that.

Q. Can you read?

A. Yes.

Q. Be ſo good as look at that direction, and tell me whether ſuch a direction as that was upon the packages?

A. It might, but not to my knowledge.

Q. Were they directed ſome of them upon cards like that?

A. I am not certain.

Q. They were directed?

A. I am not certain as to that.

Q. Were there either cards or papers upon the boxes, upon which a direction was either written or might be written?

A. There might; but it was the duſk of the evening when I took them.

Q. By whoſe direction did you take them?

A. Mr. Bell's ſervant.

Q. To what place did you take them?

A. To

A. To Chester Quay.

Q. To go by what conveyance?

A. By a hoy; I believe the Whitstable hoy.

Q. Did you deliver them at the quay, or to the people of the hoy?

A. To the people of the hoy.

Q. By what directions?

A. The people in the hoy took the care of them.

Q. Did you accompany the people to the hoy next day?

A. No.

Q. And you saw no more of them?

A. No.

James Wallis. (Sworn.)

Examined by Mr. Adam.

Q. Do you live with Mr. Bell?

A. Yes.

Q. Do you know Mr. O'Connor?

A. Yes.

Q. Did he visit your master frequently?

A. Yes.

Q. Do you remember Captain Jones coming there?

A. Yes.

Q. Do you see a person at the bar that passed by that name?

A. Yes.

Q. Which is Captain Jones?

A. That person (O'Coigly.)

Q. Do you remember Captain Jones and Mr. O'Connor dining at your master's house the 24th of February, the day before Mr. O'Connor went away?

A. Yes.

Q. Did Captain Jones go away soon after dinner?

A. Yes.

Q. Do you remember Mr. O'Connor and Leary his servant leaving your master's house early on the Sunday morning?

A. Yes, I do.

Q. Did you accompany them to the hoy?

A. Yes.

Q. Where to?

A. Towards the Tower.

Q. Did you go on board the hoy?

A. I did, with them.

Q. Had you gone with the luggage the day before?

A. No.

Q. You went with them and ſuch packages as they had on the Sunday morning?

A. Yes.

Q. Do you remember any other perſons coming on board the hoy while you were there?

A. Yes.

Q. Where did you firſt ſee them?

A. In a veſſel in the river.

Q. Whom did you ſee in that veſſel?

A. Captain Jones I knew.

Q. The ſame perſon you have pointed out now?

A. Yes.

Q. And who elſe did you ſee?

A. Colonel Morris.

Q. Do you ſee him at the bar now?

A. Yes, (Mr. O'Connor.)

Q. Did they come from on board that veſſel to the hoy?

A. Yes, in a ſmall boat.

Q. You came on ſhore again and left the hoy?

A. Yes.

Q. Was that the laſt you ſaw of them?

A. Yes.

Q. Do you know any of the other priſoners at the bar?

A. No.

Q. Did you ever ſee the perſon that ſits next O'Coigly?

A. No.

Q. Do you know how Mr. O'Connor's baggage was directed?

A. No.

James Wallis,

Croſs-Examined by Mr. Dallas.

Q. I believe you know that Leary is Mr. O'Connor's ſervant?

A. Yes.

Q. You know that he has been ſo from the time almoſt that he was a child?

A. I cannot ſay that.

Q. But as long as you have known Mr. O'Connor, has Leary been his ſervant?

A. Yes.

Q. How long have you known Mr. O'Connor?

A. I never knew him till the laſt time that he was in England.

Elizabeth Smith. (Sworn.)

Examined by Mr. Abbott.

Q. Where did you live in February laſt?

A. At No. 14, Plough-court, Mr. Evans's.

Q. You had the firſt floor at Mr. Evans's houſe?

A. Yes, me and my huſband.

Q. Do you know either of the priſoners?

A. Yes, Mr. Binns, Mr. Allen, and Captain Jones.

Q. Where have you ſeen them?

A. In the ſame houſe that I lived in.

Q. Which do you mean by Captain Jones?

A. This is Captain Jones on this ſide (O'Coigly); that is the name I know him by.

Q. Had either of them a lodging in that houſe?

A. Yes, Mr. Allen had.

Q. How long did he lodge there before he went away?

A. For eleven days, I think.

Q. Had Binns a lodging in that houſe?

A. He occupied his brother's apartments.

Q. Do you recollect the day that Binns went away?

A. I do not recollect.

Q. Do

Q. Do you recollect the day that Allen went away?

A. It was on a Saturday evening.

Q. Do you know whether Captain Jones was at that houſe that evening?

A. He was at that houſe in the afternoon; becauſe he ſaw me on the ſtairs, and ſpoke to me.

Q. Do you know whether they ſlept in that houſe on that night?

A. I cannot ſay; Mr. Allen left my apartment and went up ſtairs.

Q. Did you ſee them in the houſe at bed-time?

A. No; he left my apartment, and went up ſtairs.

Q. He did not ſleep in his own apartment?

A. No.

Q. Do you happen to know who ſlept in Mr. Binns's apartment that night?

A. Captain Jones and Allen.

Q. What reaſon have you to ſuppoſe that?

A. Captain Jones has ſlept there, and uſed ſometimes to ſleep there with Mr. Binns; I have ſeen them go up ſtairs together to go to bed.

Q. Did you ſee Captain Jones go up ſtairs that night to go to bed?

A. No; I ſaw him in the afternoon.

Mr. Juſtice Buller. I thought you ſaid juſt now he went away on Saturday evening?

A. Allen left my apartment on Saturday evening, and went up ſtairs.

Mr. Juſtice Buller. Why do you ſuppoſe that Captain Jones ſlept there that night?

A. Becauſe he has ſlept there before with Mr. Binns; I have ſeen him go up ſtairs to bed.

Mr. Juſtice Buller. Did he that night?

A. I cannot pretend to ſay that; I ſaw him in the houſe that afternoon.

Mr. Abbott. Did you hear from him whether he meant to ſleep there?

A. I did not.

Q. Had

Q. Had you ever ſeen Captain Jones before laſt February?

A. Yes, about five weeks before.

Q. What name did he go by then?

A. I do not know; that was the firſt time I ſaw him.

Q. Did he tell you where he was going then?

A. No.

Q. You do not know what name he went by when you ſaw him firſt, but when he returned, he went by the name of Captain Jones; what dreſs was he in?

A. In blue regimentals.

Q. Was he in regimentals when you firſt ſaw him?

A. No.

Q. Can you tell whether any perſons went out of the houſe early on the Sunday morning?

A. I do not know; I did not ſee him any more.

Elizabeth Smith,

Croſs-Examined by Mr. Plumer.

Q. You ſay you had ſeen Mr. O'Coigly only once before, and then you did not ſpeak to him?

A. No.

Q. How long that was before the laſt time you had ſeen him, you do not exactly recollect; it might perhaps be two or three months?

A. No, about five weeks.

Q. What makes you know it was only five weeks?

A. From my own recollection.

Q. Does any particular circumſtance enable you to fix the time?

A. No.

Q. Did you underſtand that he had been to Ireland in the intermediate time, when he came back again?

A. Yes.

Q. When did you firſt ſee him come back—was not it about ten days before he went away on the Sunday?

A. It was about ten days before he laſt ſet off.

Elizabeth

Elizabeth Smith,

Croſs-Examined by Mr. Fergusſon.

Q. Did Allen occupy an apartment to himſelf?

A. No, all three of them lived in the ſame room.

Q. How much did they pay a week for this room?

A. Seven ſhillings and ſixpence.

Q. Have you reaſon to know how long Allen had been in London?

A. No; I only know that he came to lodge there, and that he lodged there eleven days.

John Richardſon. (Sworn.)

Examined by Mr. Garrow.

Q. Did you officiate as a watchman in Plough-court, where Evans lives, on Saturday night, the 24th of February?

A. Yes, I did.

Q. Were you deſired to call at that houſe at an early hour in the morning, to call ſome perſons up?

A. I was deſired by a man to call him up at five o'clock in the morning; I knocked at the door at five o'clock.

Q. Did you ſee the people that went out?

A. I did not.

Richard Smith. (Sworn.)

Examined by Mr. Garrow.

Q. I believe you are maſter of the Thomas and Stephen hoy from London to Whitſtable?

A. Yes.

Q. Do you remember upon the evening of Saturday the 24th of February, any places being engaged in your hoy, for the next morning?

A. There were ſome packages came on board about ten o'clock in the evening of Saturday.

Q. What ſort of packages were they?

A. Boxes and things.

Q. Were they like theſe upon the table?

A. Yes.

Q. Were they numbered?

A. Some

A. Some of them, but not all.

Q. Did the next morning any perſon who is now here come to your hoy?

A. Yes, thoſe four (pointing out Mr. O'Connor, Allen, Leary, and O'Coigly.)

Q. Did they bring any packages with them in the morning?

A. Yes.

Q. Who brought them?

A. Mr. O'Coigly brought ſome.

Q. What ſort of packages were they?

A. They brought ſome of theſe, ſome came over night, ſome came with them next morning?

Q. Did all theſe four perſons ſail with you?

A. Yes.

Q. How were the packages directed?

A. To Colonel Morris.

Q. Had you any converſation with any of thoſe perſons whilſt they were on board the hoy?

A. Nothing more than their aſking me what places we came by; that was all that paſſed between us.

Q. Did you paſs Graveſend?

A. Yes.

Q. Had you any talk about Graveſend?

A. They aſked me whether my veſſel would be overhauled at Graveſend?

Q. Which of the gentlemen ſaid that to you?

A. They were all together, one of them aſked that queſtion; I ſaid no, we never were in going down, unleſs there was ſome particular occaſion.

Q. What time did you arrive at Whitſtable?

A. About ſix o'clock.

Q. How were your paſſengers carried out from the hoy at Whitſtable?

A. Mr. O'Connor and Mr. O'Coigly went in a boat together with other paſſengers; ſome of the packages were taken out by them that night.

Q. Did you carry the little things?

A. No,

A. No, I offered to carry ſome, but O'Coigly ſaid no, they would carry them themſelves.

Q. When did you land the reſt of the things?

A. About an hour after.

Q. Where did you take them to?

A. We carried them to the inn and left them there.

Q. Who was there then?

A. Mr. O'Coigly.

Q. Who paid you?

A. He paid my maſter.

Q. Did he pay for all, or only his own ſhare?

A. He paid for all.

Q. Did either of the perſons who were your paſſengers upon that trip wear a great coat with a black collar?

A. I think I can tell the man that wore that coat.

Q. Who wore that coat?

A. The ſtout gentleman, O'Coigly had that coat on, and he wore a hairy cap.

Q. A cap of this ſort (ſhewing it the witneſs)?

A. Yes, a cap of that ſort, and a great coat of this kind.

Q. You have ſeen the great coat ſince theſe perſons were apprehended?

A. Yes.

Q. Did you know it to be the great coat O'Coigly wore in that trip?

A. Yes, and I have two pieces I cut out of it.

Richard Smith,

Croſs-Examined by Mr. Dallas.

Q. When did you mark that great coat?

A. When I was in London.

Q. How long was that after Mr. O'Coigly was on board the hoy?

A. I cannot ſay rightly.

Q. Was not that great coat produced to you by ſome perſon in London, as the great coat that Mr. O'Coigly had in the hoy?

A. It was brought to me to ſay whether it was?

Q. Was

Q. Was it not brought to the houſe where you were, to aſk you whether that was the great coat Mr. O'Coigly had in the hoy?

A. Yes.

Q. Was it produced to you ſingly, or with any other great coats?

A. It was in the room when I went in.

Q. You never ſaw him before the day when he was on board the hoy?

A. No, not to my knowledge.

Q. And you ſaw him at Whitſtable the next day?

A. Yes.

Q. At what o'clock did Mr. O'Coigly come on board the hoy?

A. Between ſix and ſeven; he and Mr. O'Connor came together, or nearly at the ſame time, I did not obſerve it particularly, it was as near as can be at the ſame time.

Q. Were you preſent when the baggage was ſearched at Whitſtable?

A. I was in the room.

Q. The boxes were broke open and ſearched there?

A. They were opened and ſearched there.

Q. By whom?

A. By the King's officer there, Mr. King.

Q. How long was this after they arrived at Whitſtable?

A. That was on the Monday night, we got there on the Sunday night.

Q. What place in London was it where you ſaw this great coat in the room, and pitched upon it as the one Mr. O'Coigly had worn?

A. The Secretary of State's office.

Q. As ſoon as you ſaw it, did you fix upon that as the one he wore?

A. Yes, and told the gentlemen there ſo.

Q. Have you any doubt now about it?

A. I do not think I have.

Q. The gentleman aſked you how ſoon it was after you had ſeen theſe perſons at Whitſtable, can you tell how ſoon it was?

A. I cannot tell, it was within three or four days.

Stephen

Stephen Perkins. (Sworn)

Examined by Mr. Adam.

Q. I believe you keep the Bear and Key at Whitſtable?

A. Yes.

Q. Do you remember on Sunday the 25th of February laſt, any of the perſons you ſee at the bar, coming to your houſe?

A. Yes.

Q. Which of them?

A. One was called Colonel Morris, and the other Captain Jones, but I do not know which was called which, the two others paſſed as ſervants.

Q. About what time of day did they arrive?

A. About four in the afternoon.

Q. Did they dine there?

A. Yes.

Q. Did they ſtay all night?

A. Yes.

Q. How were they accommodated as to beds?

A. The two gentlemen ſlept in a two bedded room, the two ſervants ſlept in one ſingle bed in a room over my tap room.

Q. Mr. O'Coigly and Mr. O'Connor ſlept in a two bedded room?

A. I do not know what their names are, but one paſſed for Captain Jones, the other for Colonel Morris.

Q. Did they all breakfaſt at your houſe the next morning?

A. No, I went out before they were ſtirring, and one of the gentlemen went out of the door, and went up ſtreet from the houſe, the other gentleman ſtopped, as I underſtood from my wife, and breakfaſted.

Q. You muſt not mention what you underſtood from any body elſe?

A. I did not ſee him breakfaſt.

Q. How do you know that one was called Colonel Morris, and the other Captain Jones?

A. I heard the company in the tap room ſpeak it from their ſervants.

Q. Was their baggage brought on ſhore that night, or the next morning?

A. The

A. The baggage brought that night was two or three ſmall boxes.

Q. Was any baggage brought next morning?

A. No.

Q. Did Mr. O'Connor and O'Coigly breakfaſt next morning?

A. No, Mr. O'Connor went up the ſtreet, and I never ſaw him at all that morning, nor never again.

Q. Mr. O'Coigly remained during the greater part of that day?

A. Yes, all the Monday.

Q. Was the baggage brought on ſhore on Monday?

A. Yes, in the evening.

Q. Did they propoſe to go from thence to any other place?

A. When the baggage was brought on ſhore, that gentleman, Mr. O'Coigly, told me he had agreed for a young fellow to carry him to Margate in his boat, and he diſappointed him, and told him he could not carry him that night, and would carry him next morning, and he aſked me if I could accommodate him with a boat to carry him to Margate, I told him I would do the beſt I could, I called a young fellow in, that was in the tap room, Edward Ward, and aſked him if he could take the gentleman, and his baggage, down to Margate, he aſked him a guinea and a half, Mr. O'Coigly did not like to give it.

Q. Did O'Coigly make any enquiry about the baggage being ſearched at the Cuſtom-Houſe?

A. When the baggage was brought on ſhore, it was ſearched by the King's Officer, after it was ſearched they all went out of the room, and Mr. O'Coigly aſked me whether there was any danger of being ſearched at Margate, I told him yes, I dared ſay there was by the ſearching officer; I ſaid I fancy I can tell you the reaſon that you was ſearched here, he aſked me the reaſon, I ſaid, did not you aſk the Hoymen whether there was any danger of being ſearched at Graveſend, he ſaid yes; I ſaid that is the reaſon then that you was ſearched here, by the information of the Hoymen.

Q. What time did they leave your houſe next day?

A. In the morning.

Q. How was the baggage carried?

A. By a cart.

Q. Whoſe cart?

A. One Thomſett's cart.

Q. Did Thomſett accompany the cart?

A. He went with the cart himſelf from my houſe.

Q. Who went along with the cart?

A. The two ſervants, Allen and Leary, and O'Coigly.

Q. Was all the baggage put in the cart?

A. Yes.

Q. They ſet off from your houſe to go to Margate?

A. Yes.

Q. Had you any converſation with O'Coigly about going to Dover?

A. I went in after they had done ſearching; I ſaid it is a very diſagreeable piece of buſineſs to have a perſon's goods torn about in that manner; I ſaid this to O'Coigly, he made anſwer to me it was; I aſked him whether he wanted to go on the other ſide of the water, he made me anſwer no he did not; I aſked him whether he had any correſpondents at the other ſide of the water, he told me he had acquaintance at Amſterdam; I made anſwer again that I was going to Dover, and if I could be of any ſervice taking a line for him I would take one with me, as there were neutral veſſels lying in Dover harbour.

Q. Did he give you a letter?

A. He ſaid he ſhould be much obliged to me, and he gave me a letter—this is the letter he gave me.

Q. Did you go to Dover?

A. Yes, I carried the letter to Dover.

Q. How came you to have the letter now?

A. I ſaid, if there is no convoy from Dover, where ſhall I direct this letter to you again? the anſwer he made me was, it was of no conſequence.

Q. Were you preſent when the agreement was made with Thomſett for the cart?

A. I was; a guinea was the money agreed upon, I think.

[*The*

[*The Letter read.*]

" Dear Sir, Whitſtable, February 26, 1798.

" Happening by accident to be here, and hearing of a gene-
" ral embargo laid on all veſſels in the Dutch ports, and a ſei-
" zure of our merchandize there, I wiſh to be informed exactly
" by you, the more ſo as I am obliged to attend my duty as a
" military man at preſent, *and my partner has a quantity of*
" *goods juſt ready to ſhip, and conſigned to you.* This will be
" ſent over by a careful hand, and the ſooner you anſwer it the
" better for both parties; becauſe, if your anſwer ſhould be
" favourable, we ſhall ſhip, perhaps, a treble quantity. Di-
" rect, in all haſte, to Parkinſon and Co. High-ſtreet, Man-
" cheſter. We are very uneaſy about the ſafety of the laſt
" parcel we ſent over. Loſe no time, I pray you. In the
" mean while I am,

" Your's, ſincerely,

" EDWARD WALLACE."

Addreſſed to " Mynheer Van Solomon, Straet Van Hacolem,
" Amſterdam."

Stephen Perkins,

Croſs-Examined by Mr. Plumer.

Q. What part of the day was it when the luggage was ſearched by King?

A. On Monday evening.

Q. There was Mr. Smith, and the Revenue-officer, Mr. King, and another perſon?

A. The people belonging to the hoy came aſhore with them.

Q. They were ſome time ſearching them?

A. They were ſome time; there were ſeveral people ſtanding at the door to ſee them ſearched—I did not.

Q. This King, and the other men, expected to find ſomething, they had ordered a bowl of punch at your houſe?

A. That I do not know; I did not ſend for them.

Q. You told Mr. O'Coigly the reaſon why he was ſearched, and that he might expect to be ſearched again at Margate?

A. Yes, there is no goods go on ſhore, from the quay at Margate, without being ſearched.

Q. You ſaid both theſe gentlemen ſlept in the ſame room—you had but one room, I believe, to accommodate them with?

A. There were two beds in one room.

Q. You had no other room to ſleep them in?

A. No; they aſked for two rooms I think, but I had no other beds fit for any gentlemen to ſleep in.

John Dyaſon. (Sworn.)

Examined by Mr. Garrow.

Q. You are nephew, I underſtand, and ſervant to Mr. Perkins, who has juſt been examined?

A. Yes.

Q. Did you ſleep in the next room to the two-bedded room, on the night the gentlemen ſlept there?

A. Yes.

Q. Did you ſee the gentlemen before they went to bed?

A. No.

Q. Did you hear any thing paſſing in that two-bedded room in the courſe of the night?

A. In the morning, before I got up, I did.

Q. What did you hear paſſing?

A. They paſſed and re-paſſed my door, and I heard ſome money told in the two-bedded room.

Q. From the length of time that it was counting, did it appear to be a pretty large quantity?

A. It was ſome conſiderable ſum, I cannot tell the quantity.

Q. Did you hear any expreſſions whilſt they were counting the money?

A. Yes, I heard them read writing, I cannot tell what; I heard a pen go; I heard there was ſomebody in the room writing; I heard one ſay to the other, that it was wrong, they muſt write ſomething elſe, but I could not tell what.

John

John Dyaſon,

Croſs-Examined by Mr. Dallas.

Q. You are a waiter in this houſe—did you liſten at the door?

A. No.

Q. I hope you did not. Do you mean to ſwear, that without liſtening at the door you heard a pen go; look at the Jury, and tell them that, upon your oath; without liſtening at the door, do you mean to tell the Jury that you heard a pen go?

A. Yes.

Mr. Garrow. What is the partition conſtituted of between the two rooms?

A. The partition between the two rooms is wainſcot, part of the way up, and then above it an open lattice work.

Q. Therefore, without getting up to liſten, you heard it?

A. Yes, I heard it as I lay upon my bed.

Mr. Garrow. I will juſt call Mr. Perkins back, to hear whether what this witneſs repreſents of the lattice-work is true.

Stephen Perkins. (Called again.)

Q. What is the partition between the room in which Dyaſon ſlept, and the room in which theſe two men ſlept?

A. Lath and plaiſter; there is a paſſage goes by this young fellow's room with a thin partition, and the head of his bed comes againſt the head of one of the beds in the other room.

Q. Is the lath and plaiſter a cloſe partition up to the top?

A. Yes, it is up to the top in that part, but it is open, in the paſſage-way to the door, for about ſixteen inches; it is an open railing above the pannel.

Q. Is there any thing there to prevent the ſound being heard from one room to the other?

A. No; if you lay in that room, you can hear any body moving in the other room.

John King, Eſq. (Sworn.)

Examined by Mr. Garrow.

Q. You are Under-Secretary of State to his Grace the Duke of Portland?

 A. Yes.

A. Yes.

Q. Were you preſent when this mahogany money-cheſt was broken open at the Secretary of State's office?

A. Yes.

Q. Did it require conſiderable force to break it open?

A. It did.

Q. Did you, upon its being broken open, examine its contents?

A. I did.

Q. Has it been ſealed up ſince?

A. Yes, with the joint ſeal of Mr. Ford and myſelf—this is my hand-writing upon it.

Mr. Juſtice Buller. You may open it.

[*Mr. King broke the ſeal.*]

Mr. Garrow. What does it contain?

A. Louis-d'ors, double louis-d'ors, and guineas—and I think one or two half-guineas.

Q. To what amount in the whole?

A. I believe ſomething more than a thouſand pound.

Q. All in ſpecie?

A. All in gold.

Q. What proportion does the foreign money bear to the other?

A. I have a little memorandum I put in my pocket; the great bulk is, I think, in double and ſingle louis-d'ors; this bit of paper was in a bag with money, and there was a little bit of ſtring, whether the ſtring is now in it I do not know, but it tied this paper to the money which was rolled up in brown paper.

Q. A ticket to ſomething like a rolleau?

A. Yes, this is the bit of paper, and this bit of paper was in the bag too, with marks of a ſum of money, which accorded with the bit of paper "97 guineas"—the ticket is "Cap-"tain Jones."

Mr. Garrow. Your Lordſhip will obſerve there is ſomething on this paper ſcratched out with a pen, which is perfectly illegible, and there is wrote "97 guineas."

Q. Did you find any thing elſe?

A. Nothing

A. Nothing but theſe rolleaus; in order to count them we opened all but three—thoſe three are left in the ſtate in which they were. I muſt obſerve, that the white paper in which we wrapped them up, is not the paper they were originally wrapped up in.

Q. Did all the papers contain an equal number?

A. The rolleaus, in general, contained ſixty louis-d'ors, and of double louis-d'ors about forty; there were four little ivory cylinders taken out of a ſmall dreſſing-box, which alſo held guineas; Mr. Ford and I counted them out of this box, and we marked them.—This paper was taken out of the dreſſing-box, I marked it at the time—it was then in the ſame ſtate as it is now. [*The paper was torn in ſeveral places.*]

[*It was read.*]

" ommunicate write by
" Mr. William Williams, at the Fountain Inn, St. Margaret's-
" ſtreet, Canterbury, where I ſhall receive it to-morrow
" morning about o'clock. I have ſeen the perſon I
" expected, and procured two which
" he aſſures me"

On the other ſide is written,

" nature, and what was their buſineſs,
" every perſon having anſwered thoſe queſtions, he was not
" particular or urgent upon any further enquiries. Mr. Corn-
" wall is employed by the D. of Portland, and was preceeded
" in his employment by a perſ from the office of the
" Secty. I have made"

Mr. Garrow. What we read it for is the direction, " Mr.
" William Williams, at the Fountain Inn, St. Margaret's
" Street, Canterbury."

John King, Esq.

Cross-Examined by Mr. Plumer.

Q. From whom did you receive the box you have been speaking to the contents of?

A. The box, with the money, I received from Mr. Ford.

Q. When?

A. I should suppose about the 6th or the 7th of March; it has been in my possession ever since, under the joint seals of Mr. Ford and myself.

Q. Do you know where it came from when it was brought to you?

A. It was brought to me from Mr. Ford's room, which is over the office rooms.

Q. Had you seen it in the room?

A. I saw Mr. Ford put it in a place he has in that room, and I received it from Mr. Ford.

Q. Is there any other box you have spoken to but that?

A. Yes, a dressing-box.

Q. Did you also receive that from Mr. Ford?

A. That was taken out atthe time they were broken open in my presence.

Q. Who had the other when it was opened?

A. It was delivered into the custody of Mr. Ford.

Q. Who delivered it into his custody?

A. The messenger; I believe he was in the room when it was opened.

Q. I understand they were both opened, and the contents of one box was put into the other?

A. Yes.

Q. You have told us one box you had from Mr. Ford—do you know where the other came from?

A. They were both in the possession of Mr. Ford.

Mr. Garrow. They were both in Mr. Ford's room, in the Secretary of State's office?

A. Yes.

Q. They were both broken open in your presence?

A. Yes.

Q. And

Q. And the money-cheſt delivered over to your keeping?

A. Yes.

Q. And the other was put into Mr. Ford's keeping?

A. Yes.

Richard Ford, Eſq. (Sworn.)

Examined by Mr. Garrow.

Q. We have underſtood that you were preſent when this ſmall money-cheſt was broken open at the Secretary of State's office?

A. I was.

Q. Did you and Mr. King put your reſpective ſeals upon it?

A. Yes; firſt of all we marked it.

Q. How did you become poſſeſſed of this ſmall-cheſt?

A. I received it from Fugion and Revett, in Bow-ſtreet.

Q. It continued in your office, unopened, till it was broken open in the preſence of Mr. King and you?

A. I ordered them to keep the box, and to bring it when I had them to re-examine; I did not break it open at that time; they were ordered, the next day, to the Secretary of State's office, and there the box was broken open in my preſence.

Q. There is a dreſſing-box likewiſe, in a black leather caſe, did you ſee that broken open?

A. Yes, I did.

Q. By whom was that produced?

A. It was produced at Bow-ſtreet by Fugion and Revett, and kept by them till the next day, when they brought it to the Secretary of State's office.

Q. I underſtand it has been in your cuſtody ever ſince?

A. It has.

Richard Ford, Eſq.

Croſs-Examined by Mr. Dallas.

Q. Theſe boxes were brought by Fugion and Revett to Bow-ſtreet—what became of them after they were brought there?

A. They were not opened in Bow-ſtreet; the priſoners were committed; I knew they would be re-examined, therefore

fore I kept the boxes unopened; the matter was then communicated to the Secretary of State, who had been apprized of it before; he ordered them to be brought to his office, and there the boxes were broken open.

Q. In whoſe cuſtody did they continue?

A. In the officer's cuſtody, locked up in a room at Bow-ſtreet.

Richard Ford, Eſq.

Croſs-Examined by Mr. Gurney.

Q. The priſoners were brought before you immediately upon their arrival in town, prior to their being taken to the Secretary of State's office?

A. Yes.

Q. Mr. Binns, when he was brought before you, acknowledged immediately that his name was John Binns?

A. He did.

Richard Ford, Eſq.

Croſs-Examined by Mr. Ferguſſon.

Q. Do you recollect any money being ſtated by the officers to be found upon Allen?

A. I do not recollect it.

Mr. Plumer. Mr. O'Connor told you his name immediately?

A. I aſked him what his name was, he ſaid his name was O'Connor.

Q. Did Allen give you his name?

A. He did; and he ſaid, what he had done was by his maſter's orders.

Mr. Garrow. You have been aſked whether Mr. Binns, upon being aſked his name, did not immediately tell you his name, and whether Mr. O'Connor did not alſo tell you his name—I underſtand they both did; did you aſk any of the priſoners whether they were acquainted or connected with each other?

Mr. Plumer. Were the particulars of their examination taken down in writing?

A. The particulars of the priſoner O'Coigly's examination were taken down in writing by myſelf, which I have got.

Q. Mr.

Q. Mr. O'Connor's were not?

A. No, Mr. O'Connor declined anſwering any queſtions.

Edward Fugion. (Called again.)

Examined by Mr. Garrow.

Q. Among the articles you ſecured and brought up to London, was this ſmall heavy cheſt one?

A. It was.

Q. Did you keep that in your poſſeſſion till you got to Bow-ſtreet?

A. Yes.

Q. Where did you take it next day?

A. To the Secretary of State's office.

Q. Did you take it there in the ſame ſtate in which you found it at Margate?

A. Yes.

Q. Did you deliver it in preciſely the ſame ſtate at Mr. Ford's office?

A. I did.

Q. Is this dreſſing-box one of the articles you brought up in the ſame manner?

A. It is.

Q. Did you take that likewiſe to Bow-ſtreet?

A. I did.

Q. During that night, whilſt it remained in Bow-ſtreet, in whoſe cuſtody was it?

A. Locked up in a dining-room, of which I had the key; it was carried unopened to the Secretary of State's office the next day.

Q. Were you preſent when the boxes were opened?

A. I was only preſent when the little box was opened.

Q. Was it opened with conſiderable difficulty?

A. There was a ſmith ſent for to open it.

John Revett. (Called again.)

Examined by Mr. Garrow.

Q. Did you aſſiſt in bringing this ſmall cheſt to London, and the dreſſing-box?

A. Yes.

Q. Did

Q. Did you keep them at Bow-ſtreet that night, in the ſame ſtate in which you found them at Margate?

A. Juſt ſo.

Q. Were they locked up there that night in the ſame ſtate?

A. They were; I took them the next morning, in the ſame ſtate, to the Secretary of State's office.

Q. Had they been opened, from the time you found them at Margate, till they were opened by force at the Secretary of State's office?

A. They had not.

Jonas King (Sworn.)

Examined by Mr. Adam.

Q. You are Coaſt-waiter at Whitſtable?

A. Yes.

Q. Do you know any of the priſoners?

A. I have ſeen them all before.

Q. Do you know Mr. O'Connor, O'Coigly, Allen, and Leary?

A. I ſaw them at Margate.

Q. Did you ſee the other priſoner at Whitſtable, on the 26th of February?

A. Yes; I did not ſee Mr. O'Connor there.

Q. Do you remember, on Monday the 26th of February laſt, ſome baggage being brought from on board the hoy, to the Bear and Key?

A. Yes.

Q. Did you examine it?

A. Yes, I examined the whole, excepting two mahogany packages.

Q. What was your reaſon for not examining them?

A. I conceived there were no ſmuggled goods in them from their ſmallneſs; and if there were any treaſonable papers, or any thing of that ſort, I knew my authority was not ſufficient to detain it.

Q. Did any thing paſs between you and Leary upon that ſubject?

A. Mr.

A. Mr. O'Coigly told me they were Colonel Morris's packages, and he had the keys; and they were his ſervants, which was the reaſon why he did not chuſe to have them opened.

Q. The others you opened and examined?

A. Yes, I did.

Q. Did they ſay where Colonel Morris was going to?

A. They told me he was going to the Eaſt Indies.

Q. The perſon to whom theſe two boxes belonged?

A. They ſaid the whole belonged to Colonel Morris, and part were marked with his name; that he was going to the Eaſt Indies, and he had the keys, which was the reaſon why they did not produce them.

Q. Did you ſee Binns afterwards, at any time?

A. Yes, at Margate.

Q. Do you remember any thing that paſſed reſpecting Binns at Margate?

A. I told him he was the man that had been with the people at Whitſtable to hire a boat, as he anſwered the deſcription they had given me of him.

Q. Did he ſay any thing upon that occaſion?

A. No, he did not ſay a word.

Q. Had he ſaid any thing before that?

A. I believe he ſaid ſomething that he ſeemed ſurpriſed that I ſhould ſay he had ever been at Whitſtable: I told him I thought he was the perſon that had been with the Whitſtable people to get a boat to convey ſome perſons to France.

Q. You did not ſee Binns till he was apprehended?

A. No.

Mr. Dallas. Nothing paſſed between you and Leary?

A. Not that I recollect.

Thomas Hockleſs. (Sworn.)

Examined by Mr. Abbott.

Q. Are you part owner of the Whitſtable hoy?

A. Yes.

Q. Do you know either of the priſoners?

A. I know O'Coigly.

Q. Upon

Q. Upon what occaſion did you ſee him?

A. I went to receive the freight from him on Monday evening, the 26th of February.

Q. For how many did you receive freight?

A. I put down in the bill ſix parcels and four paſſengers, but there were ſeven, and four boxes, which made eleven.

Q. Did he pay you?

A. He paid me one guinea.

Q. Did you give him a receipt for it?

A. I did.

Mr. Attorney General. Is this the bill?

A. Yes, it is.

[*It was read.*]

" Col. Morris,

" To Saliſbury and Co.

			s.	d.
" 1798.				
" 25 Feby.	" To 4 Paſſengers - - -		10	0
	" To freight of 6 parſel of badage		11	0
		£.	1	1	0

" Recd. the Cont^{s}.

" For Saliſbury and Self,

" Thos. Hockleſs."

Henry Thomſett. (Sworn.)

Examined by Mr. Attorney-General.

Q. Where do you live?

A. At Offham, in this county.

Q. What is your employment?

A. A labourer.

Q. Do you remember being at the Bear and Key, at Whitſtable, on Monday, the 26th of February laſt?

A. Yes.

Q. Upon what occaſion did you go there?

A. I only went there knowing the people there.

Q. Did

Q. Did you ſee any of the priſoners at the bar there that night?

A. Yes, there were ſome gentlemen there.

Q. Had you any converſation with thoſe gentlemen about taking any baggage to any place?

A. I was in Mr. Perkins's tap-room, where the two ſervants ſat, one of Captain Jones's, and the other Colonel Morris's.

Q. Do you know the names of the ſervants?

A. No.

Q. Had you any converſation with them about taking baggage any where?

A. The waterman came in and ſaid he would not take them under a guinea and a half; I offered to take them for a guinea; the ſervant immediately aſked me to go into the parlour to Captain Jones, I went in and agreed to take them for him for a guinea.

Q. Do you know Captain Jones again?

A. Yes, that is him. (O'Coigly.)

Q. Did you ſee Colonel Morris at Whitſtable, on Monday morning?

A. Yes.

Q. Did you ſee them land?

A. Yes, I was there when they came on ſhore from the hoy on Sunday afternoon.

Q. You did not ſee Colonel Morris when you went to agree about taking the baggage?

A. He was not there then.

Q. Had you any talk about Colonel Morris with Captain Jones, when agreeing with him about the baggage?

A. Not a word.

Q. Did Captain Jones, or either of the ſervants, tell you where Colonel Morris was gone to, or where you were to meet them?

A. I was to meet them at Margate.

Q. Who did you make that bargain with?

A. With Captain Jones.

Q. Had you any converſation with Colonel Morris's ſervant about where his maſter was going to?

A. None

A. None in particular; I did not aſk him any queſtions; in travelling he put that converſation to me—he ſaid he was going to meet Colonel Morris at Margate, with another gentleman coming from Dover.

Q. In the converſation that paſſed, was it ſtated to you where Colonel Morris was going to?

A. Captain Jones ſaid he ſhould return to London again, as Colonel Morris and his ſervant were going to the Weſt Indies.

Q. You are ſure of that?

A. Yes.

Q. What time did you ſet out from Whitſtable?

A. A quarter before ſeven in the morning.

Q. At what time did you arrive at Margate?

A. About four in the afternoon; we ſtopped on the road to breakfaſt, at Mrs. Raddon's, at a place called Sarr.

Q. Was that on the Tueſday?

A. Tueſday morning.

Q. Did Captain Jones go with you?

A. He and the two ſervants walked along-ſide the cart all the way; we got to Margate about four.

Q. Had you any other converſation with the Captain, in your way from Whitſtable to Margate?

A. After we left Sarr, Captain Jones aſked me what buſineſs I was; I told him I was a trader, and lived about forty miles from the place where I was then. I told him the people at Whitſtable were all in a boggle about him.

Q. What did you mean by that expreſſion?

A. All in confuſion to know where he was going; that they were in a miſtruſt about him, about where he was going; he ſaid he was going to meet Colonel Morris and the gentleman from Dover; he ſaid he had been at ſea himſelf, that he had ſailed in the Morgan Rattler, the laſt American diſturbance, as Captain.

Q. Do you recollect what ſort of baggage it was you took in your cart?

A. Yes, this is ſome of the luggage.

Q. Do you recollect any thing in particular?

A. Yes, that box Captain Jones told me to take great care

of particularly, and a coat that was tied up; when we breakfaſted, he ordered me to take the coat out of the cart into the parlour; I gave it to the perſon that ſtands behind him, that acted as his ſervant, he took it in the parlour.

Q. Should you know the coat again if you ſaw it?

A. It was ſomething like one of theſe coats; it was tied up, with a tea-cheſt in it. After we had been at Margate about three minutes, Colonel Morris came, with the other gentleman; he called for a private room.

Q. Was that the ſame perſon you had ſeen come from the Whitſtable hoy, on the Sunday?

A. Yes, with a drab-coloured frock coat on, with another gentleman with him; they went up ſtairs immediately: I ſaid to the ſervant, that is Colonel Morris—by Jaſus, ſaid he, I don't know.

Q. Which of the ſervants ſaid that?

A. Allen.

Q. Were you paid for this job?

A. Yes; Captain Jones gave me a guinea. After the barber had dreſſed his hair, he went up ſtairs to Colonel Morris.

Mr. Juſtice Lawrence. Do you know the perſon that was with Colonel Morris?

A. I did not take notice of his face as he came in.

Henry Thomſett,

Croſs-Examined by Mr. Dallas.

Q. You told Captain Jones, on the way to Margate, that the people at Whitſtable were in a ſtate of diſtruſt about him?

A. I did. When he gave me the guinea he ſaid, the people at Whitſtable are nothing to you; they are in a boggle, keep them ſo.

Q. Do you know a woman of the name of Sarah Jones?

A. Yes, ſhe is a ſiſter of mine.

Q. Have you ever had any converſation with her about the evidence you intended to give upon the trial of this indictment?

A. Nothing of any conſequence.

Q. As to the conſequence you will ſuffer us to judge: ſtate

what the converſation was you had with her upon the evidence you intended to give upon this indictment?

A. She ſent to me when I was at Canterbury, to ask me about this buſineſs; ſhe ſaid it would be better for me if I did not come forward, ſhe thought I might have ſome money there; I denied her, and went out of the houſe immediately. She ſaid Mrs. Peck, the phyſician's wife, at Canterbury, was Mr. O'Connor's firſt couſin.

Q. Upon your oath, and mind what anſwer you give, you never declared to her that you would hang all theſe perſons?

A. I ſaid if they deſerved it, let them be hung; I ſtick to my ſtuff now; I will never deny one word.

Q. Upon your oath, have you not declared to her poſitively that you would hang all theſe perſons?

A. I will take an oath I have not ſaid any ſuch thing.

Q. Have you ever talked to her about the expectation you had of a reward after this trial ſhould be over?

A. Never, I was not with her a minute.

Q. And you never ſaid, I take for granted, that if they had a hundred lives, you would take them all?

A. No.

Q. Do you know Cornelius Kettle?

A. Yes, he lives at Offham.

Q. Have you never told him that you were to have a reward after this trial was over?

A. No.

Q. You never told him that you were to have a hundred pound for the job?

A. No.

Q. Nor ſaid any thing to that effect?

A. I ſaid I would not take a hundred pound: my meaning is bribery, that I would not take a hundred guineas.

Q. Upon your oath, did you add the words, from any of Mr. O'Connor's friends.

A. No; it was only his converſation to me, that I refuſed it becauſe I have had it put to me: ſince that I have had three hundred pound offered me.

Q. Do you mean to ſay that the ſubſtance of your converſation to him, was, that you would not take a hundred guineas from

from any friend of Mr. O'Connor's; or that you would not take a hundred guineas for the reward you were to have for the evidence you were to give?

A. There was nothing of Mr. O'Connor mentioned.

Q. But ſomething of a hundred guineas was mentioned?

A. He might ſay, Harry would you take a hundred guineas, and I might refuſe it.

Q. But upon your oath, did he ſay ſo?

A. I cannot ſwear any ſuch thing.

Q. Upon your oath, what did you yourſelf ſay, as to this hundred guineas?

A. There was no hundred guineas.

Q. You ſaid ſo juſt now?

A. I ſaid I would not take a hundred pound.

Q. What did you ſay about the hundred pound?

A. I ſaid I would not take a hundred pound.

Q. For what?

A. For bribery.

Q. Do you mean to ſwear that is what you ſaid to Mr. Kettle?

A. It was my meaning.

Q. I aſk you what you ſaid—you will not ſwear you added the words, for bribery?

A. That is my meaning, that I would not take a hundred pound, if any body offered me.

Q. Did you make uſe of the word, that you would not take a hundred pound for bribery?

A. There was no ſuch thing as a hundred pound mentioned.

Q. Do you know a woman of the name of Mary Morgan?

A. No.

Q. Was there any woman preſent at the time you had this converſation with Mrs. Jones?

A. There was ſome chair-woman in her room there.

Henry Thomſett,

Re-Examined by Mr. Attorney-General.

Q. You dropped an expreſſion that you had had three hundred pound offered you; pray who offered you that three hundred pound?

A. I had a brother that was ſent from Newgate, a priſoner that is in there, that offered it me.

Q. What did he offer it you for?

A. To go away, and not come againſt theſe people.

Q. In point of fact, your brother came to you and offered you three hundred pound; how do you know he was ſent from Newgate?

A. By his word.

Q. That is all you know of it?

A. Yes.

Q. You refuſed that three hundred pound which was ſo offered you?

A. Yes.

David Aſſiter. (Sworn.)

Examined by Mr. Adam.

Q. You are a ſtone-maſon at Graveſend?

A. Yes.

Q. Do you recollect, upon Sunday the 25th of February, either of the perſons now at the bar coming to your houſe at Graveſend?

A. The middle one, Binns, came to my houſe.

Q. What did he ſay to you?

A. He mentioned a name in London that I knew, Galloway.

Q. Who is he?

A. He is ſomething in the iron work by profeſſion.

Q. Where had you known Galloway?

A. I had known him three or four years back in London.

Q. You underſtand my queſtion; in what character and capacity did you know Mr. Galloway?

A. As a member of the Correſponding Society; he mentioned Galloway's name, and ſaid he wanted a horſe.

Q. Did he give any name as his own name?

A. He ſaid his name was Williams.

Q. What did he ſay about Galloway?

A. He only mentioned Galloway's name.

Q. As how?

A. He mentioned his name from my knowing Galloway three or four years back. I recommended him to a horſe, that was what he aſked.

Q. Did he tell you where he came from?

A. He

A. He ſaid from London; that he had come down by the Graveſend boat.

Q. Where did he ſay he was going to?

A. To Canterbury or Whitſtable.

Q. Did you procure him a horſe?

A. I recommended him to a horſe.

Q. Did he name both places, did he ſay that he was going to Canterbury or Whitſtable?

A. Yes.

Q. Did you ſee any thing more of him till he was taken into cuſtody?

A. I never ſaw him from that time till I ſaw him in cuſtody.

Q. You are ſure he is the perſon?

A. I am.

Q. You did not know his real name?

A. No, I did not.

Nicholas Cloke. (Sworn.)

Examined by Mr. Garrow.

Q. You keep the Sun Inn, at Canterbury?

A. Yes.

Q. Do you remember, upon the evening of Sunday the 25th of February, any perſon at the bar coming to your houſe?

A. Yes, Mr. Binns came to my houſe.

Q. In company with whom?

A. A perſon of the name of Mahoney.

Q. How did he come to Canterbury?

A. He came on horſeback.

Q. What application was made to you with reſpect to this gentleman?

A. Mahoney aſked me if I could accommodate that gentleman with a bed, and take care of his horſe, I told him I would do it; he begged me to put up his horſe, then Mahoney and he went into the bar, and had ſome beer there.

Q. Did the priſoner make any application to you to ſend to any other inn for him?

A. He desired me to send to the Fountain Inn for a letter or parcel directed for Mr. Williams, and gave me a shilling to pay for it.

Q. Was his name mentioned to you in any other way than desiring you to enquire for a parcel for Mr. Williams?

A. Not at that time; I sent, but there was nothing; one of them said it might be at the Post-Office, I believe Mahoney, but am not certain, said that, upon which Mahoney said he would go and see---he went.

Q. Did the prisoner say any thing to you, after Mahoney was gone, with respect to the journey he had taken that day?

A. He said he was very much fatigued with his journey, that he came from London to Gravesend in the boat, and from thence to Canterbury on horseback, and was very much fatigued; he asked me when I thought the Whitstable hoy would be in? I told him I thought that evening.

Q. Was this while Mahoney was gone?

A. Yes; Mahoney returned with a letter or two which he gave to Mr. Binns.

Q. I suppose you did not see the directions of those letters?

A. I did not.

Q. Was it, or them, opened by the prisoner?

A. I am not certain whether one or two were brought; I saw him open one, then some conversation took place about the Whitstable hoy between Mahoney and Mr. Binns.

Q. About its arrival?

A. Yes; Mahoney asked the prisoner then what he the prisoner intended to do with himself that evening? Binns said he had some thoughts of going to Whitstable; Mahoney advised him to stop and go in the morning, and he would get somebody to spend the evening with them; I then offered them another room, Mahoney went out and soon after returned, and three persons more, who spent the evening with them.

Q. Who were they?

A. Claris, a bookseller, Stirrup, a man that lives in Canterbury, and another person that I did not know.

Q. About what time did the prisoner Binns retire to rest?

A. About eleven o'clock.

Q. When

Q. When did you ſee him again?

A. The Wedneſday following.

Q. You never ſaw him till he was in cuſtody again, I believe?

A. No; and then I ſaw him at Canterbury at the King's Head.

Q. Did you go into the room where he was?

A. I did; I went up to him and told him I had had the pleaſure of ſeeing him before, but he denied knowing me, and ordered me out of the room.

Q. Repeat his expreſſion when he denied knowing you, and ordered you out of the room?

A. He ſaid he knew nothing of me, and with a deal of haughtineſs ordered me out of the room.

Q. That induces me to aſk you whether you are ſure that this is the perſon who was at your houſe upon the Sunday evening before, and with whom you had all this converſation?

A. I am.

Q. Have you any, the leaſt doubt in the world of it?

A. No.

Mary Lemon. (Sworn).

Examined by Mr. Garrow.

Q. You were a ſervant to Mr. Cloke, at the Sun, at Canterbury?

A. Yes.

Q. Do you remember upon a Sunday night any perſon whom you now ſee in Court ſleeping at you maſter's houſe?

A. Yes.

Q. Which is the perſon?

A. That man, Binns, (pointing to Mr. O'Connor).

Q. How ſoon after he came to your houſe did you ſee him?

A. Till about ten o'clock when he went to bed; I warmed his bed and lighted him to bed.

Q. Was the perſon a ſtranger to you before?

A. Yes, he was.

Q. Did that perſon, whom you ſo lighted to bed, give you any directions for the next morning?

A. Yes; I was to call him between ſix and ſeven o'clock.

Q. Did you do ſo?

A. Yes, I opened his door and called him.

Q. How ſoon after you had called him, at ſix o'clock, did you ſee that perſon again?

A. He called for his ſhoes and black gaiters that he had, and I ſaw no more of him after he went out till between twelve and one o'clock.

Q. Where did you ſee him then?

A. He came back to our houſe to breakfaſt.

Q. Was any perſon with him when he came back?

A. Yes.

Q. Are the two perſons here that returned to your houſe after the gueſt had gone out in the morning?

Q. Yes.

Q. Who were theſe two perſons that returned after the gueſt had gone out in the morning?

A. The perſon furtheſt from me (Mr. O'Connor) is one.

Q. Was that the perſon (O'Coigly) that came back?

A. No.

Q. Was that the perſon (Binns)?

A. No.

Q. Was Mr. O'Connor the perſon?

A. No.

Q. Which do you take to be the perſons that came back?

A. Mr. O'Connor and Mr. Binns.

Q. Which are the two perſons, whom you now take to be Mr. O'Connor and Mr. Binns?

A. Mr. O'Connor I cannot recollect.

Q. Which do you take to be Mr. O'Connor now?

A. When I ſaw them before in London I knew them.

Q. Are you enabled now to point out which you in your conſcience believe to be thoſe two perſons?

A. No.

Q. Do you think that by going nearer to them you ſhould be able to point out the perſons?

A. I think I ſhould—(the witneſs went cloſe to the bar).

Q. Do not hurry yourſelf, but look attentively at all thoſe perſons,

perſons, and ſtate which you believe to be the perſon you lighted to bed, and who went out early in the morning?

A. That is the gentleman that ſlept there (pointing to Mr. O'Connor)—no, that is the perſon—(pointing to Binns).

Q. Who do you now repreſent yourſelf to believe was the perſon that ſlept at your maſter's houſe?

A. That gentleman—(Mr. O'Connor).

Q. What did you mean juſt now by pointing to the perſon who ſtands neareſt to you?

A. This (Binns) is the gentleman that came in the morning along with Mr. O'Connor about noon.

Q. What do you mean?

A. He (Binns) is the gentleman that ſlept at our houſe.

Q. There was but one ſtranger came to your maſter's houſe on Sunday, was there?

A. No.

Q. Which of the perſons do you believe was that ſtranger?

A. This gentleman.

Mr. Juſtice Buller. I have ſtruck her evidence out of my notes.

Daniel Valder. (Sworn.)

Examined by Garrow.

Q. You are an Officer of the Cuſtoms at Margate?

A. Yes.

Q. In conſequence of ſomething that had come to your knowledge was you upon the watch upon the night preceeding the apprehenſion of the priſoners at Margate?

A. I was.

Q. Did you continue on watch till all the boats were laid aground by the ſtate of the tide?

A. I did.

Q. Did you afterwards go to Mrs. Crickett's, at Margate, where the priſoners were apprehended?

A. I did.

Q. Did you aſſiſt in their apprehenſion?

A. I did.

Q. Did any of the priſoners ſay any thing upon that occaſion

ſion with reſpect to their knowledge of each other?

A. I did not hear them.

Q. You aſſiſted in ſeizing the baggage likewiſe?

A. I did.

Q. Did you hear any converſation of the priſoners?

A. None at all.

Oliver Carlton, Eſq. (Sworn).

Examined by Mr. Attorney General.

Q. You live I believe in Dublin?

A. I do.

Q. What official employment do you hold there?

A. I am High Conſtable of the diſtrict of the metropolis?

Q. Have the goodneſs to inform me whether you found thoſe papers any where, and upon what occaſion?

A. I found thoſe papers in Leinſter houſe, in the apartments of Lord Edward Fitzgerald.

Mr. Attorney General. Theſe are the two letters which Mr. Lane proved to be in the hand-writing of Mr. O'Connor.

Oliver Carlton, Eſq.

Croſs-Examined by Mr. Plumer.

Q. You live at Dublin?

A. I do.

Q. You know then that Mr. O'Connor was kept in cloſe cuſtody in the caſtle at Dublin for ſix or ſeven months?

A. He was for ſeveral months.

Q. And he was then liberated without any trial?

A. I believe ſo.

Q. I believe you remember when Mr. O'Connor had a ſeat in the Iriſh Houſe of Commons?

A. I do.

Q. What place did he repreſent?

A. I do not know.

Q. He is the nephew of my Lord Longueville?

A. I have heard and believe ſo.

Q. I

Q. I believe it was the beginning of January, in the present year, when Mr. O'Connor left Ireland?

A. I do not know the time he left it.

Mr. Attorney General. Look at this letter, ſubſcribed James O'Coigly?

A. I found all the letters in the ſame room; I put a wafer on them.

Mr. Abraham Abbot. (Sworn).

Examined by Mr. Attorney General.

Q. Where do you live?

A. In Cork, in Ireland.

Q. Be ſo good as look at theſe two letters, and ſay if you know whoſe hand-writing they are?

A. I believe them to be the hand-writing of Mr. O'Connor.

Q. Have you ſeen him write?

A. I have.

Mr. Attorney General. Thoſe two letters were alſo proved by Mr. Lane to be Mr. O'Connor's hand writing.—We will firſt read the letter to Lord Edward Fitzgerald.

[*It was read.*]

" My dear Friend,

" I have had a letter written to you theſe ten days, and have " not had an opportunity of ſending it to you; you can't con- " ceive how it has vexed me not to be able to find a good, or " indeed any, way of getting Maxwell off; he has been moſt " active to try and get away from his Creditors, but they ſo " watch him, and this Embargo by the Enemy make it moſt " difficult, though I think he will be off in three days from " this; it's ſaid that Lord Fitzwilliam is going over to Ire- " land, and that *great hopes are entertained of ſeparating the* " *Catholics from the Union.* This will be your, and *every* " *honeſt man's buſineſs to prevent*, and tho' a few of the old " Committee *Patriots* ſhould attempt it, the people are moſt " honeſt.—I received both your letters—the one to Debrets, " and the one by *the Young Men*—I ſhall do all I can for " them,

" them, and hope with effect in three days ; if that fails, I will " make it a point with Maxwell, that he goes by Hamburg ; " indeed he is in the greateſt impatience to be off. *The man* " *of Conſideration* told me he heard the Government here had " intercepted a diſpatch from France for Ireland, which pro- " miſed great aſſiſtance. They are here *in great conſterna-* " *tion, the Money and their Commerce are very low*, The *black* " *Terrier and his little Brother* are but *ſorry Curs*—the latter " has become a land broker, and if I am rightly informed, has " found the *little Prieſt*, and *the Sugar Baker and many others* " *have ſent him their money to lay out for them*, and thus *to have* " *their agent* they have been at work ; *Chevalier* was the perſon " who wrote to my friend to have nothing to do with *Nicholſon* " *or her ſet*, for that they had fallen into contempt, from the " appearance they cut.——I ſend two Copies of the Pamphlet, " but they muſt not be let out of the room you and Pamela " read them in, until you hear from me, as otherwiſe I " ſhould be in Limbo ; there is not one out here, nor will " there, until I can do it in ſafety,—you can have an edition " printed in Ireland—I ſhall ſend you 100 copies for the " inſtant—They are to be ſold at three ſhillings and ſixpence, " and of courſe not to be given to any that cannot be de- " pended on, to avoid proſecution.—*The inſtant I get to* " *Williams you ſhall hear from me, I mean to be as active as* " *I can* ; one of the Copies are for Dowdall, and let him inſert " as much of it, or all of it, as he likes ; he will obſerve the " Errata and the Corrections. I have not words to tell you, " how much I am concerned at Pamela's illneſs, but I hope " and truſt ſhe is getting better—I ſend you a letter for M'N. " and leave it open that you may ſee it. You can Seal it, and " ſend it to him, and ſend the Money to Hugh Bell for me. " Adieu my dear Friend, be diſcreet, and on your guard.

" Your's, ever moſt ſincerely.

" P.S. I have written to Emmett *about your Friend's Bail*— " *He has adjuſted his Fortune*, ſo as that you nor he can be put " to any inconvenience *for want of the Money being paid.*

" Lord Edward Fitzgerald."

Mr.

Mr. Attorney General, We will now read the paper, which is proved to have been found in the razor caſe, which explains *Williams* by the word *France*.

[*It was read.*]

" France	Williams
" Spain	Thompſon
" Holland	Gray
" England	Richards
" Breſt	Liſbon
" Texel	Embden
" Belfaſt	Boſton
" L. Swilly	Rhode Iſland
" R. Shannon	New York
" Galway	Philadelphia
" Shannon	Delaware
" Bantry	Cheſapeak
" Kinſale	Cape Fear
" Cork	Charles-fort
" Waterford	Williams-town
" Wexford Coaſt	Newfoundland
" Wicklow Coaſt	New England
" Dublin Bay	Honduras Bay
" Houth Bay	Campechy
" Direct.	Correſpondents
" 1000 men	£1000
" Ship of line	A Hogſhead
" A Frigate	A Tierce
" Ireland	Patrickſon
" A Muſket	A Nail
" A Cannon	A Jarr
" A Six Pounder	Six Quarts
" Military Stores	Merchandiſe
" Dover	Doneghadee
" Calais	Port Patrick
" Hamburgh	Baltimore
" Horſes	Hooks
" Carts	Lines
" Guard	Supercargo

" Land	Silk
" Years Purchaſe	Bales of Silk
" Paris	This Place
" Beer	Blake
" Ld. Fitz.	O'Brian
" Mathewſon	Marks.

Mr. Attorney General. Now we will read the other which is a letter to Mr. Roger O'Connor.—There is a paſſage at the end of the letter which has juſt been read " I have " written to Emmett about your Friend's Bail"—The letter to Mr. Roger O'Connor will ſhew what that means.

[*The Letter was read.*]

" London, 13th February, 1798.

" My deareſt Friend,

" *I have ſold all my Property to Burdett, yet it may ſtill go* " *on in my name, and the Rents are to be tranſmitted to Hugh* " *Bell, No.* 40, *Charter Houſe Square*;—Sweeney ſaid he " would undertake to receive the Rents, and after paying all " the Charges, tranſmit the remainder, there are £.250 to " William, £50. to J. Bullen, £.42 to the Widow of Henry, " and £.36 to the Miſs Bullens and Wogan, making in all " £.378—on Receipt of this you will ſend for Burke and ſee " all his accounts, and tell him to pay the Rents to Sweeney— " Nothing can be more confuſed than his Way of keeping " Accounts—I have over and over again given him a Plan for " keeping them, but he never could be brought to follow it— " Let Sweeney give him a Book and ſhew him how he is to enter " the Accounts. I beg you will examine how his Accounts " ſtand, for I believe he dont ever pay his own Rents, which " are conſiderable—Out of the laſt half year I received but little " —I beg of you to loſe no time in putting my Affairs in the " beſt footing—If you can ſell the Eſtate of Cork, Burdett " will ſign the Deed of Sale, as he has a Deed from me. If " this could be done, it would be of great uſe, as I could diſ- " poſe of the money to the greateſt Advantage—All this I " depend on your and Sweeney's Exertions for.

" Your

" Your Letters have gained you the greateſt Credit. No " one that has not been ſtruck with them—Burdett and I have " written to you often, which from your's to him I find you " never got—We ordered you the Courier—As to the Morn- " ing Papers they are mere Lumber in your Office—ſo we did " not ſend you more than the Courier, as, in the buſineſs of the " Preſs, we found it uſeleſs to have any other—I ſhall leave this " to-morrow, ſo that you will not hear from me again for ſome " time. I have heard of Conceſſions---but I lay little ſtreſs on " them---*if the people are true to themſelves they muſt be free*--- " Edward will hear from me more regular than you, and will " tell you of me until we meet. Adieu, my ever deareſt " friend, ever and for ever your's.

" Nothing can be worſe than the State of their Finances " here---*they are alarmed to the heart, ſo much ſo as to plan* " *deſperate meaſures, Scotland is Iriſh all over*, the *People here* " *give no Opinion, though it is eaſy to learn that they look for a* " *change*.

" I have juſt heard that the Government here have ſtopped " a Letter from France to Ireland offering the Iriſh ſupport. " It was told me by a Courtier, and I believe it is the Caſe. " Ever your's, my beloved Friend.

" I ſend our dear Friend a Letter by the ſame Mode I ſend " this, as the Poſt-Office ſtops them elſe."

Mr. Plumer. I wiſh to aſk Mr. Carlton two other queſtions——

Oliver Carlton, Eſq. (Called again.)

Q. I believe Mr. O'Connor was concerned as the Editor of a newſpaper called the Preſs?

A. Yes.

Q. When you arreſted Mr. O'Connor you ſeized all his papers that you found?

A. All that I found in his poſſeſſion.

Q. I believe you afterwards ſeized all his brother, Mr. Roger O'Connor's papers?

A. No, I did not.

Q. Were

Q. Were you not preſent when they were ſeized?

A. No.

Q. He has been in gaol too for many months?

A. I believe for ſome months.

Q. And was liberated in Ireland?

A. I believe ſo.

Mr. Attorney General. Do you mean to ſay that Mr. Arthur O'Connor was concerned in the paper called the Preſs?

A. Yes.

Q. Do you know that fact?

A. Yes; I know his name was at the bottom of the paper called the Preſs.

Q. You never ſaw his name regiſtered at the Stamp Office, did you?

A. No.

Mr. Attorney General. I will now prove the hand-writing of Mr. O'Coigly to the letter found by Mr. Carlton at Leinſter Houſe.

Mr. Frederick Dutton. (Called again.)

Examined by Mr. Attorney General.

Q. Do you know whoſe hand-writing this letter is?

A. It is Mr. O'Coigly's, to the beſt of my belief.

[*The letter read.*]

" Dublin, Jan. 14th, 1798.

" Citizen,

" You'll pleaſe to remain at home to-morrow, as I intend " to call upon you preciſely at ſeven o'clock in the evening, to " talk over that buſineſs of the letter, and other affairs of that " buſineſs likewiſe.

" JAMES COIGLY."

" To Citizen Fitzgerald,
" commonly called
" Lord Edward Fitzgerald."

Mr.

Mr. Frederick Dutton,

Croſs-Examined by Mr. Gurney.

Q. Pray, how many informations may you have laid in Ireland, in the courſe of the laſt three or four years?

A. Indeed I could not tell.

Q. I would not tax your memory too cloſely; do you think you can gueſs within fifty?

A. I do not know whether I am obliged to anſwer that queſtion; I beg the protection of the Court.

Mr. Garrow. I ſhould doubt whether, in the preſent ſtate of Ireland, this examination may not be dangerous.

Mr. Gurney. When a witneſs comes to relate a fact, eſpecially a fact againſt a priſoner, ſurely I have a right to ſhake his credit by any means in my power; and it is one mode, if I prove him to be a common informer. I may have, and I have, other queſtions to follow this, which I conceive to be of conſiderable moment to the credit of this witneſs. I ſubmit that, as a foundation for the future queſtions I have to aſk, I am ſtrictly regular in aſking whether he can tell the number of informations he has laid within the laſt two or three years?

Mr. Attorney General. What is meant by that, for it is an ordinary ſort of phraſe which I cannot underſtand?

Mr. Gurney. Then I ſhould have thought that was a reaſon why the queſtion ſhould not have been objected to by Counſel. If the witneſs ſays he does not underſtand it, that is another reaſon.

Mr. Attorney General. Do you mean informations before a Magiſtrate?

Mr. Gurney. Take it ſo—what number of informations he has given before Magiſtrates?

Mr. Juſtice Buller. He ſays he is under the protection of the Court; if he thinks himſelf entitled to the protection of the Court, to prevent him from anſwering, he muſt ſtate a little more.

Dutton. If it is a fair queſtion, and agreeable to your Lordſhip, I will anſwer it. The anſwer is this—I am on my oath

now—and I believe, if I recollect, you aſked me whether I could recollect within fifty; my anſwer is, I never lodged fifty informations in my life.

Mr. Gurney. How many have you lodged?

A. I could not ſay, upon my oath, exactly, but I really do not know that I ever lodged ten.

Mr. Attorney General. Is it to be aſked in every caſe againſt what individual and upon what account that information has been lodged?

Mr. Juſtice Buller. No, Mr. Gurney has not gone to that.

Mr. Attorney General. Mr. Gurney profeſſes attempting to diſcredit the witneſs, by getting out the number of informations he has given; I have a right to ſet up the credit of the witneſs, by aſking him to the fate of thoſe informations, who are the individuals named in all of them; and what the effect of that may be, may be worth conſideration on all ſides.

Mr. Juſtice Buller. And therefore if any inconvenience or miſchief is likely to ariſe from it, the Court ought to be told ſo, but I cannot divine it.

Mr. Garrow. That ſeemed the ground upon which the witneſs meant, as it ſeemed to me, to make his objection. The queſtion put was, How many informations have you given—do you think you can gueſs within fifty? Mr. Gurney ſtates, as the ground of his queſtion, that he has a right to impeach his credit, by proving him to be a common informer. After the fate of obſervations lately upon that ſubject, about perſons who are ignominiouſly called ſpies, I hardly expected that would be ſtated as a ground of imputation to a witneſs. I am to learn, that any information, for the purpoſe of advancing the public juſtice of the country, is a ground of imputation. I am ſure, in no times could the juſtice of the country be adminiſtered, if that is taken as a broad propoſition to be ſtated in a Court of Juſtice. The witneſs throws himſelf upon the Court whether he is bound to anſwer that queſtion; and if it is to be aſked, how many informations he has laid, and it is to end there, it is indirectly attacking the credit of the witneſs, without giving him an opportunity to defend himſelf. What follows? Why, upon the part of the Crown we ſhall be bound to

aſk againſt what manner of perſons and what particular individuals, of what claſſes, and what ſocieties this perſon has given informations; what has been the fate of them, whether true or falſe, and whether they tended to the adminiſtration of juſtice or defeating it, which, I admit, if founded in falſehood, would diſgrace the witneſs; but we have heard, from the higheſt authority, that the witneſs is not to be impeached, becauſe he has been ſo examined as a witneſs; if they can produce any record of conviction, or ſhew he has conducted himſelf ſo as to diſgrace him, that is another thing; but if it is by a wholeſale ſweeping queſtion, to aſk how often this gentleman has been inſtrumental in advancing the public juſtice of the country, I proteſt againſt that as any ground of attacking any witneſs's credit.

Mr. Gurney. I hope and believe I have not been ſo abſurd, as, by way of diſcrediting a witneſs, to aſk him how often he has contributed to the advancement of the public juſtice of the country; neither have I, under colour of addreſſing the Court on a point of law reſpecting the admiſſibility of evidence, made an addreſs intended for other ears on the effect of the evidence. I have aſked this queſtion of the witneſs, (with a view to aſk further queſtions which I expect will impeach his credit) How many informations he has laid; I may purſue that the length of aſcertaining that he is a common informer; a common informer, in one ſenſe, may be a very bad character; it is poſſible, and barely poſſible, in the other ſenſes, that he may not be a bad character. Poſſibly I may go on to ſhew that this is a man of ſo infamous a character, that his informations have been rejected on that very account; I may go on to ſhew his evidence has been rejected in a Court of Juſtice on that account; it is poſſible I may prove that by evidence; therefore I ſubmit this is a proper queſtion.

Mr. Juſtice Buller. It is meant, I underſtand it now, to throw an imputation upon him; then he is entitled to the protection of the Court.

Mr. Gurney. If I aſked him a queſtion which would convict him of a crime, then, my Lord, he would be entitled to the protection of the Court.

Mr. Juſtice Buller. We are all of opinion, as it ſtands now, that the queſtion ought not to be put.

Mr. Juſtice Lawrence. You cannot follow up the queſtion, by aſking him whether he has been believed.

Richard Ford, Eſq. (Called again.)

Examined by Mr. Attorney General.

Q. Theſe priſoners were brought before you at Bow-ſtreet, I underſtand?

A. They were.

Q. Did you take the examinations of any of them in writing?

A. Yes, the examination of the priſoner O'Coigly.

Q. Were you preſent afterwards when the priſoners, or any of them, were examined before the Secretary of State?

A. I was preſent when they were all examined before the Secretary of State.

Q. Did the priſoner O'Coigly ſign his examination?

A. He did not.

Q. Did you propoſe to him to ſign the examination?

A. I did, and he declined it.

Q. Was it propoſed to the ſeveral priſoners in your preſence to ſign the examinations that were taken before the Secretary of State?

A. I cannot exactly ſay whether it was to all of them; I rather think it was; I am ſure it was to Mr. O'Connor, I am ſure it was to Mr. O'Coigly; there was no examination reduced to writing of Mr. Binns; I believe Mr. Allen alſo refuſed to ſign his examination; I have no correct recollection about the priſoner Leary.

Q. Have you got the examinations that were taken at Bow-ſtreet and before the Secretary of State, which they refuſed to ſign?

A. I have.

Q. Were you the perſon who took down thoſe examinations at the time?

A. I was; this is the one I took at Bow-ſtreet.

Richard

Richard Ford, Esq.

Croſs-Examined by Mr. Plumer.

Q. Was not the reaſon why Mr. O'Coigly would not ſign it, upon its being read over, that he ſaid it was not correct?

A. No, that was not the reaſon.

Q. Did he not ſay ſo?

A. No.

Q. Was there no obſervation of that ſort made?

A. Mr. O'Coigly at Bow-ſtreet ſaid it was the purport of what he had to ſay, but that he did not chooſe to ſign it.—Mr. O'Connor's examination took up ſome time, and he and I afterwards went into another room, where it was ſettled, as far as I believe it could be, to his ſatisfaction, but he declined ſigning it.

Mr. Attorney General. Do I underſtand you right, that after it had been taken, Mr. O'Connor and you ſettled it together to his ſatisfaction?

A. Mr. O'Connor was examined before the Members of the Council, and I took down a note of what he ſaid; that was afterwards copied by one of the clerks, and copied incorrectly; when it was read over the next day to Mr. O'Connor, he objected to many things, that they had not been written as he ſtated; I was deſired to go into another room with Mr. O'Connor to ſettle the examination by ourſelves, and I ſettled it to Mr. O'Connor's ſatisfaction; Mr. O'Connor dictated a good deal of it to me; there was nothing I took down that I did not afterwards read to him, and have his aſſent to it.

Mr. Plumer. Did you tell either of theſe gentlemen, when you were taking down their examination, that it might be produced againſt them?

A. No.

Q. You did not give them any notice of that?

A. No.

Mr. Attorney General. What was ſaid to the perſons that were examined in your preſence by the Secretary of State, before any queſtions were put to them?

 A. They

A. They were told, as all the priſoners I have been preſent at the examination of before the Secretary of State, have been always told, when brought in, that the charge againſt them is of ſuch and ſuch a nature; that they may decline anſwering any queſtion that they feel at all to affect them.

Mr. O'Connor. Did I not, at the Council, when I ſaw you writing, make an objection to any thing I ſaid being taken in writing, as it was ſo liable to miſtake?

A. I rather think you objected; you ſeemed to think ſomething might be taken down in an unfair way; it was upon that ground afterwards that you was deſired to do me the favour of going into the next room, and ſettling your examination with me to your own ſatisfaction.

Mr. O'Connor. Do you recollect, when I went into that room, that I objected to moſt parts as it had been taken down?

A. As it had been taken down before.

Mr. O'Connor. Do you recollect that you was rather fighting to have a good deal retained, which I was rather unwilling ſhould?

A. I will ſtate how I feel that in my own mind at preſent. You ſaid a great number of things the day before (whether relevant or not I have nothing to do with) which the next day, or the day after, when you were in the other room with me to ſettle the examination, you wiſhed to alter; many of them had no reference at all to the charge; thoſe things were altered certainly; a great number of things were ſtruck out, and I believe I might have ſaid, in anſwer to your queſtion, "Why, it "does not much ſignify, you certainly ſaid that, it may as "well ſtand as not."

Mr. O'Connor. You conſtantly ſaid, "It does not ſignify." To haſten the matter, I brought in the paper to the Duke of Portland; you wanted me to ſign it in the ſtate it was; I did not chooſe to ſign it, but I am not conſcious that there is any thing in it.

Mr. Attorney General. Was there any thing put down in the firſt paper that Mr. O'Connor did not declare?

A. Nothing.

Richard Ford, Eſq.

Croſs-Examined by Mr. Ferguſſon.

Q. Whether you can bring to your recollection whether the priſoner Allen was aſked to ſign his examination?

A. I can hardly ſay whether he was examined or not; if he was, it was very ſlight.——Yes, I have a minute of his examination; I think he was asked to ſign it, but he did not ſign it; but I do not ſtate it with that certainty that I do with reſpect to Mr. O'Connor or Mr. O'Coigly.

Mr. Attorney General. Did Mr. O'Coigly call himſelf Mr. Fivey, to you?

A. I asked him what his name was? he ſaid it was Fivey.

[*The Examination of James John Fivey, taken before Mr. Ford, read.*]

" Weſtminſter to wit. The Examination of James John " Fivey, of Dublin, in Ireland, who ſays, that being in an ill " ſtate of health, he went into Kent, with a *view of paſſing a* " *ſhort time in the neighbourhood of the ſea, previouſly to his going* " *to Dublin*, having an expectation of going in ſome trading " veſſel back to Dublin in a few days—that he went down " there (to Whitſtable) in a Whitſtable hoy, embarked near " the Cuſtom Houſe at Cheſter Key, on board the ſaid hoy, and " arrived at Whitſtable on that night—That a young gentleman, " named Allen, who was introduced to him a few days before, " propoſed to go for a few days with him previouſly to his going " to Jamaica, where his brother lives—That ſaid Allen was in- " troduced to him a few days before by an Iriſhman, whoſe name " he forgets, but rather believes to be one Hamilton—That " Allen is an Iriſhman, and is now in cuſtody—That another " gentleman and his ſervant went on board with him, who are " ſtrangers to him—that he ſaw the name of Morris on their " trunks—That the linen ſtriped bag, a pair of ſaddle-bags, and " a leather portmanteau, all now produced and marked by John " Revett, in examinant's preſence, were his (examinant's) " luggage——That he recollects having ſeen the three maho-

" gany boxes now ſhewn him, and marked by Richard Smith,
" and another box in a leather caſe, and rather thinks they
" belonged to the gentleman he ſaw on board the hoy——That
" the paper-board box now produced he alſo remembers to have
" belonged to ſaid Allen.——And this examinant ſays he laſt
" lived in Greek-ſtreet, in Dublin, at Mr. Marmions, and is
" of no particular buſineſs; *that he has been in London ever*
" *ſince May laſt, excepting a ſhort time at Mr. Campbell's at*
" *Liverpool*, and lodged in Barton-ſtreet, Weſtminſter, and
" with Dr. Macan, in Charles-ſtreet, Weſtminſter, and elſe-
" where.——That when at Whitſtable, one Perkins offered
" to take him to Fluſhing, which examinant refuſed, meaning
" to go to Margate."

" Taken by me, this 1ſt March, 1798,
" RICHARD FORD."

Mr. Plumer. Where was the luggage marked?

A. At Bow-ſtreet.

Q. By whom?

A. I directed it to be marked; I think I ſaw Smith mark it; I am ſure it was marked by ſome of the perſons that came from Whitſtable; it was marked in the room in which I was.

Q. Were the priſoners there?

A. I cannot ſay whether they were or not.

Mr. Juſtice Buller. Had O'Coigly ſeen the luggage when that examination was taken?

A. It was in the ſame room, he was cloſe to it, and when theſe boxes were marked, they were pointed out to him.

Mr. Plumer. It is here ſtated as a fact, that they were all marked by Revett, in his preſence.

Mr. Ford. That is my writing, I wrote it from what paſſed at the time.

[*The Examination of John James Fivey, taken before his Grace the Duke of Portland, read.*]

" The Examination of James John Fivey.—This examinant
" ſays that his name is Fivey, and that his Iriſh name is O'Coig-
" ly,

" ly, *Coig* meaning in Iriſh *five*; he is of no particular pro-
" feſſion, *and declines anſwering whether he is in orders or not*;
" he came to England about the latter end of May laſt; he did
" not engage the Whitſtable Hoy before hand, but told a Sailor
" he deſigned going, and made no particular agreement—he
" ſent his baggage, but declines anſwering by whom—he meant
" to have ſtaid at Whitſtable if he had found good lodgings;
" from thence he went by land to Margate, acroſs the country,
" with a perſon who ſhewed him the road; he walked; two of
" the company who were in the hoy joined him, he may have
" ſeen Mr. O'Connor before, *but had no connection with him.*—
" Mr. O'Connor went to Canterbury, he had no direction to
" examinant at Margate. Examinant came to the inn firſt—
" though Mr. O'Connor's ſervant and another young man, by
" name Allen, came before him.—Examinant had been in-
" troduced to Allen before by an Iriſhman, as ſtated in his
" former examination—he has ſeen Binns at a public meet-
" ing in the laſt Summer, but has no particular acquaintance
" with him—he thinks Binns went by the name of Williams,
" but has no direct knowledge of it.—Examinant is ſure he
" did not ſee him at Whitſtable, or any where between Lon-
" don and Margate, and that he had no kind of communica-
" tion with Williams about getting a veſſel at Whitſtable.—
" And this examinant further ſays, that he did not know that
" O'Connor went by any other name, but he ſaw the name
" of Colonel Morris written on the trunks; *examinant had*
" *no great coat with him, nor was there any great coat in the*
" *room when he was taken*—there were ſeveral great coats in
" the party, but he don't remember who wore them. Ex-
" aminant ſhould have remained at Margate, and have left
" his company in a few hours; he enquired for lodgings, the
" girl at the inn ſaid ſhe knew a perſon who would let ſome
" cheap, and that ſhe would make enquiries—Examinant was
" not in health; he paid for the hoy a guinea—the man gave
" him a receipt—the gentleman deſired him to pay for all the
" party.—Examinant (being ſhewn a paper, No. 1. ſigned
" O'C. and marked J. Revett*) he ſays he does not know

* Being the note beginning " *Dear Jones.*" Vide page 146.

" the

" the hand-writing, or whether it was meant to be addreſſed " to him—Examinant has been in Plough Court Fetter Lane, " and may have had letters directed to him there; (being " ſhewn a pocket-book, green and gold, produced by Revett,) " he ſays *it was not found upon him*; he declines anſwering as " to the letters of ordination found on him—he knows no- " thing of a paper directed to Lieutenant Johnes (now ſhewn " to him) *or of a letter from Manchester, ſigned Wm. Parkinſon,* " *directed to Amſterdam—he never ſaw the paper purporting* " *to be an Addreſs to the Directory of France.—No money in* " *the baggage belonged to him*, he ſuppoſes it belonged to the " perſon who had it in his care.—Examinant denies the great " coat to be his; the baggage was taken care of by the gentle- " man;—Examinant ſaw ſomething like the coat in the cart; " ſays that he dined with Binns and O'Connor, and that " Allen and O'Connor's ſervant dined together; being ſhewn " a ſtock buckle, (produced by John Revett) he ſays he had " one, but does not know whether that is it or not; (being " ſhewn a dagger, produced by John Revett) he ſays he " bought it near Capel Street, on the North Side the Ri- " ver in Dublin; he did not order it, but found it ready " made; when he came to London, he lodged in Barton " Street, at No. 8, up two pair of ſtairs; lately he has had " no lodging, but ſlept occaſionally at acquaintances; the laſt " nights he ſlept at Hamilton's in Holborn:—he knows Evans " of No. 14, Plough Court, but does not know whether he " is a member of the Correſponding Society.—Binns of Fet- " ter Lane, is a member of that Society, as examinant be- " lieves.—Examinant had the care of the baggage from " Whitſtable to Margate—but knew nothing of its contents:— " they were to ſettle with him at Margate.---Examinant never " ſaw it opened but by the Revenue Officer at Whitſtable.--- " Examinant does not know one Mahoney at Canterbury, or " any other perſon there, nor had he any recommendation to " any perſon there, or direction; he does not know any per- " ſon named Williams; (being ſhewn a paper in pencil, mark- " ed 2 Fivey, and produced by John Revett*) Examinant

* Being the direction to Mr. Kean Mahoney.

" ſays

" ſays he does not know it ; that he does not know Mr. " Murphy in Dover Street Piccadilly ; (being ſhewn a paper " marked 7 Fivey, John Revett,) he ſays he does not know " the hand-writing, nor a paper marked No. 6 Fivey ; he ſays " he has ſeen Croſsfield and Colonel Deſpaird, but does not " know much of them---he knows alſo one Stuchey a Taylor, " near Bloomſbury, but does not know Palmer.

" Taken before me, this 5th day of March, 1798,

" PORTLAND."

Richard Ford, Eſq.

Croſs-Examined by Mr. Plumer.

Q. Whether particular queſtions were not put to the priſoners when they were examined?

A. There were.

Q. Is any one of thoſe queſtions put down in this examination?

A. Not one, excepting where it ſays, " being ſhewn ſuch " a paper," or " being aſked,"

Q. Have you taken down the anſwers without taking down the queſtions?

A. I took it down in the nature of an examination.

Q. Then when a queſtion is put and negatived, it is not noticed? You do not mean to repreſent that this contains every thing that paſſed?

A. I ſhould upon my oath refer to that paper, as a pretty correct tranſcript of what paſſed.

Q. I dare ſay that you took down correctly what appeared to you, to be material upon the ſubject. I do not know that you were aware at the time it would be produced in a Court of Juſtice?

A. There was a great probability that might be the caſe ; I took it down as completely as I could, there were a number of things which I did not think it was material to put down.

Q. I underſtand then you did not apprize the priſoners, that theſe would be made uſe of againſt them, as evidence, which

which I take for granted, you would have done if you had expected it; there is not one queſtion put down?

A. No.

Mr. Attorney-General. Is not this the conſtant courſe in which examinations are taken?

A. Yes, I have attended the Privy Council for years, and this is the manner in which examinations are always taken down, at the Privy Council, and at Bow Street.

Mr. Juſtice Buller. Did you read this over to the party?

A. I am almoſt certain I did.

Mr. Attorney-General. Is it not the conſtant practice to read them over to the party afterwards?

A. I am almoſt certain I did.

Mr. Juſtice Buller. Have you any doubt whether you did or not?

A. I very ſtrongly think that they were read over to them.

Mr. Plumer. But you will not be poſitive?

A. I will not be ſo poſitive as I am, that Mr. O'Connor's was read over to him, becauſe that paſſed in a room in which he and I were together, and I remember taking particular notice of that.

Mr. Juſtice Buller. Have you any memory whether the examination taken in Bow Street, was read over to O'Coigly?

A. It was read over to him, and he was aſked if he would ſign it; and he was aſked alſo whether he would ſign that before the Privy Council.

Mr. Plumer. It would be very material to ſee the queſtions.

Mr. Juſtice Buller. I never ſaw an examination with the queſtions.

Mr. Garrow. According to the direction of the ſtatute, this is preciſely the form that has been conſtantly adopted.---Your Lordſhip recollects in Lamb's caſe, it was preciſely in this form, and he was executed upon it; after it had been ſaved for the opinion of all the Judges.

[*The Examination of Mr. O'Connor, taken before his Grace the Duke of Portland, read.*]

"MIDDLESEX TO WIT. } The Examination of Arthur O'Connor, Esq.

"This examinant says that he embarked on Sunday morning "last, some where near the Tower. That his purpose was to "go to Whitstable, *his ultimate intention being to go to Mar-* "*gate*; that he did not know any person of the name of Fi- "vey, there were people in the hoy, and amongst them, a "very old man, and some others, but how many he does not "recollect.---Being asked whether he knows one Binns, he "declines answering as to him or any other person; he declares "unlimitedly *that he had no intention to have gone to France, or* "*had engaged any vessel whatever for that purpose*; that he "landed at Whitstable, and was afterwards at Margate, but "does not say with whom. That he heard that his baggage "was examined at Whitstable, though he was not present; "but as the baggage has been a long time out of his possession, "he declines saying what part of it belonged to him; that "he told his servant to take his baggage to Margate, but "heard that he could not get it conveyed by water. That ex- "aminant went from Whitstable to Canterbury, in his way "to Margate. Says that he does not know a person named "Mahoney, at Canterbury; respecting the baggage he says, "from its having been opened since it was in his possession, "he declines specifying what part belongs to him; that he is "no ways accountable for what may be in the baggage, not "having himself kept the keys of it; he says there are some "mahogany boxes which belonged to him, that there appear- "ed to be 2 boxes that had money, but as they and the keys "have been sometime out of his possession, it would be im- "prudent in him to be accountable for their contents; that "he knows of no paper that can apply to him, and that he "never kept a paper that any person ought not to see, and "that he is convinced, that when the boxes were in his pos- "session, there was no political paper in them; but that there

"was

" was money in them belonging to him; that he thinks there " are 4 Rouleaus of 50 Guineas each, in one box; that he " does not exactly know the amount in the other, but that it " contained Louis.—Says he bought the Louis in London, " from a gentleman who got them, he does not chuſe to name " him; that he had had an intention to have gone to Ham- " burgh; that he was expecting letters conveying intelligence " of his bail, *which were to determine the time of his going* " *to Ireland, and that he had an intention to have ſent his bag-* " *gage by ſea to Ireland*; ſays that he ſeldom travels by his " own name, and that he had ſeen ſome of his things marked " with the name of Morris; *he declines ſaying whether he ever* " *went by the name of Maxwell*; and this examinant declines " ſaying any thing, as to who was with him at any particular " time; he does not wiſh to be thought connected with any " body elſe, but to ſtand clear of all other perſons.—That he " gave his ſervant money to pay for his fare, and of courſe " ſuppoſes that he did ſo; that he ſhould not have authorized " him to have paid for any body elſe; that he had had a jack- " et made when he had an intention to have gone to Swit- " zerland, which may be in his trunk; that he meant to have " paid a viſit to Lord Thanet, and Lord Stanhope, from whom " he had received invitations; that he had a caſe of piſtols " made by Manton, and another caſe which he had had from " a friend, but that he is not anſwerable for any thing that " may be found in thoſe caſes for the ſame reaſon he gave with " regard to the other boxes.

" Taken before me, this 5th day of March, 1798.

" PORTLAND."

Mr. Attorney-General. We have a tranſlation of the paper found in the poſſeſſion of Mr. O'Coigly.

Mr. Plumer. I believe Mr. O'Connor when he was aſked upon the ſubject of that dreſs, ſtated that he had always, when abroad, travelled as a military man?

Mr. O'Connor. I ſaid I had travelled in company with General Hutchinſon, and that I always travelled as a military man, which I found moſt convenient.

Mr.

Mr. Plumer. I obſerve that is not put down in the examination?

Mr. Attorney-General. Was that put down upon the firſt day's examination, and ſtruck out afterwards, when you and Mr. O'Connor, ſettled it to Mr. O'Connor's ſatisfaction?

A. I recollect particularly that I had written down "mili-"tary jacket,"—and that upon the ſecond examination, when ſettling it to Mr. O'Connor's ſatisfaction, Mr. O'Connor objected to the word "military," therefore I ſtruck it out, and left it jacket.

Mr. O'Connor. Did I not ſtate that it was a walking jacket, which I intended for Switzerland.

A. Mr. O'Connor walked up and down the room, and dictated the words, and he will do me the juſtice to ſay that I wrote them down as he dictated.

Mr. Attorney-General. In order to ſet this right, I muſt aſk whether a great part of what Mr. O'Connor had ſtated upon his firſt examination, was not ſtruck out, at the ſecond, at his own inſtance?

A. It was.

Mr. O'Connor. When I firſt began the examination, whether I did not ſay, I could not think of ſaying any more unleſs the paper was to be ſhewn me after it was written, and unleſs any part that I thought miſrepreſented was to be ſtruck out?

Mr. Ford. Do you mean the ſecond day?

Mr. O'Connor. No, the firſt day.

A. It was upon that ground I was deſired to ſettle it the next day to your ſatisfaction.

Mr. O'Connor. Then I deſire you will recollect whether I did not particularly mention that I had travelled in company with General Hutchinſon as a military man?

A. I remember what you ſtate perfectly well, excepting that I do not recollect the name of the military gentleman you mentioned.

[*An extract from the pocket-book, found on the person of John Binns, read.*]

	£.	s.	d.
" 21. Gravesend boat, - -	0	1	0
" Coach to Rochester, - -	0	2	6
" Bed and maid, - -	0	1	2
" 22. Breakfast, supper, and waiter, -	0	4	3
" Brandy and water, - -	0	1	0
" Coach to Canterbury, 27, -	0	8	6
" Coachman and expences, -	0	1	6
" Dinner, - - -	0	2	6
" Brandy and water, Whit, -	0	2	0
" Supper, bed, and breakfast, -	0	6	0
" 23. Whit punch, - -	0	5	0
" Dinner, - - -	0	2	0
" Tea, B. and W. - -	0	2	0
" Bed and maid, - -	0	1	6
" 24. Coach to Deal, 13, - -	0	6	6
" Coachman and breakfast, -	0	2	6
" Dinner, - - -	0	2	0
" Horse, F. 17 ½ charge, -	0	11	0
" Expences there, - -	0	1	0
" Deal, - - -	0	3	0
" Post 18, 1. 3. - -	1	2	6
" Boy, - - -	0	2	0
" Turnpike, - - -	0	0	6
" Tea, - - -	0	1	0
" Coach to London, 54, - -	0	18	0
" Supper, - - -	0	2	6
" 25. Coach to Than, - -	0	2	0
" Boat to overtake hoy, - -	0	1	0
" Gravesend, - -	0	1	0
" Dinner, - - -	0	1	6
" Horse, - - -	1	1	0

" Tea, oats for horse, Newington."

[*Note. The last seven articles written in pencil.*]

On

On the other ſide of the leaf.

" Mr. Hayman, junior, Middle-ſtreet, beg to know if " Mr. Moule or Mr. Campbell is at home."

[*The following paper, found on the perſon of John Binns, read.*]

" Sign Captain's Name	as my own
" My Couſin - - -	The Veſſel's Name
" Margaret - - -	Margate Hoy
" Safety - - - -	Agreeable
" Luggage - - - -	Incumbrance
" Departure - -	Deployment
" Whitſtaple - - -	The Church
" Canterbury - - -	Deacon
" Graveſend Boat - -	Blair's Grave
" Rocheſter - - -	Clergy
" Coach - - - -	400 per Ann.
" Waggon - - -	800 per Ann.
" Guinea - - - -	Shilliing.

" Claris, Bookſeller, Canterbury."

[*The following being proved, by Mr. Ford, to be a faithful tranſlation of the French Paſsport, was read.*]

" No. 448 Liberty Equality Gratis

" No. 1277

" *L.S.*
" *French*
" *Republic*

" The Miniſter Plenipotentiary of the French Republic, at " the Batavian Republic

" Requires the Corps Adminiſtratifs, and all officers, civil " and military, freely to let paſs Citizen James J. Coigly, " American Traveller—Native of Boſton—Department of " ——— reſident at Boſton, 35 years of age, five feet four " inches high, greyiſh Hair and Eyebrows, open Forehead, " moderate Noſe, blue Eyes, middling ſized Mouth, round " Chin, round and full Face, *going to Paris.*

" The preſent valid only for two Decades, and counter-
" ſigned by one of the Secretaries of Legation.

" The Hague, the 25th Fructidor—fifth year of the Re-
" public, One and Indiviſible.

" The Miniſter Plenipotentiary of the French Republic.
" F. NOEL."

(" *L.S.* " *French Legation,* " *in Holland.*)

" The Bearer of the Paſsport
" JAMES J. COIGLY.
" The Secretary of the Legation,
" 25 at Boſton, at one Receipt, " F. FOUGUE."

On the reverſe is written as follows:

" Examined at the Police Office at Valenciennes, the 28th
" Fructidor, 5th year—MALOM.

(" *L.S.*) The Card of Hoſpitality being returned (delivered
" by virtue of a Letter from the Miniſter of the General
" Police) and ſent to the Adminiſtration of the Department for
" the exchange of a Paſsport conformable to Law, this 21ſt
" Brumaire, 6th year.

" For the Adminiſtrators CUJUS.

" *F. No.* 13. Examined by Us Adminiſtrators of the *Depart-*
" *ment of the Seine*, the Paſsport on the other ſide having
" been delivered to James J. Coigly, American Traveller,
" who wiſhes to go to *Boſton in America*; Referred to the
" Central Office of the Canton of *Paris*, in the Department
" at Paris, the twenty-ſixth Brumaire, 6th year of the French
" Republic, One and Indiviſible.—LE BLANC—BREMER—
" JOUBERT.

" Examined at the Central Office of the Canton of
" Paris, the 27th Brumaire, 6th year.

(" *L.S.* " *Central Office, at* " *Paris, 4th Year.*)

" For the Adminiſtrators
" CUJUS."

(" *L.S.* " *Department* " *of the Seine.*) Examined at the Office of Armaments, the Perſon mentioned on the other ſide going to *Hamburgh*, on board the Daniſh ſloop the Two Siſters, Capt.
" Peterſon, at *Havre*, the ſecond Frimaire, An. 6.—DU-
" PLESSIS, OLIVAULT.

" Examined

" Examined by the
" principal Commiſſioner, LE ROY.

" Examined at the Police Office, at *Havre*, to pro-
" ceed to the Place of his Deſtination, the 2d Frimaire, 6th
" Year of the Republic, One and Indiviſible.

" COMMUNE, Comy. of Police.

" MALTHIEU

" Examined by the Provincial Commiſſary,

" 3 December, 1797.

" A. SCOT."

John Jones. (Sworn.)

Examined by Mr. Garrow.

Q. I believe you live in Lincoln's Inn?

A. I do.

Q. Do you know a perſon of the name of Evans, in Plough-Court?

A. Yes.

Q. Do you know the priſoner, Binns?

A. I do.

Q. Do you remember ſeeing Mr. Binns, on Thurſday, the firſt of March, any where?

A. I did.

Q. Where did you ſee him?

A. The firſt I ſaw of him was in a poſt chaiſe, in Fleet-ſtreet, in cuſtody.

Q. Did you upon that go to Evans's houſe?

A. I did.

Q. Did you take away from that houſe any thing which belonged to Binns?

A. I took away a box, which I underſtood———

Q. Did you take away any thing which you now know, of your own knowledge, or from the information of Binns, to have been his property?

A. I cannot ſay I do.

Q. You took a box away from Evans's houſe, in conſequence of ſeeing Binns in cuſtody, in Fleet-ſtreet?

A. I did.

Q. Where is that box?

A. I do not know.

Q. Should you know it if you ſaw it again?

A. I believe I ſhould.

Q. Did you ſee it ſeized by Mr. Schaw, at Meſſrs. Sidebottom and Cook's Chambers?

A. I did.

Q. Did Mr. Schaw, the Meſſenger, take you and that box to Whitehall?

A. He did.

Q. Was the box there broke open in your preſence?

A. It was open when I went into the Council Chamber.

Q. Was it ſhut at the time Mr. Schaw and you went to the office?

A. Yes.

Q. When you went into the office you found it open?

A. To the beſt of my recollection it was the ſecond time I was called into the office that I found it open.

John Jones,

Croſs-Examined by Mr. Dallas.

Q. Was this box locked or open when it was taken away from Mr. Evans's?

A. It was faſt.

Q. Was it kept faſt at Lincoln's Inn?

A. Yes.

Q. How long did it remain in your poſſeſſion before it was ſeized by the Meſſenger?

A. About a week.

Q. I think you ſaid you ſeized and took this box away after you ſaw Binns in cuſtody, in a poſt chaiſe, in Fleet-ſtreet?

A. Yes.

Mr. Garrow. Did you ſeize it adverſely, or take it under your care?

A. I took it under my care.

Q. And while it was under your care, at Mr. Sidebottom's, it was ſeized by the Meſſenger?

A. Yes.

Q. Are

Q. Are you acquainted with Mr. Binns's hand writing?

A. I have ſeen him write, but am not acquainted with his manner of writing.

Mr. John Schaw. (Sworn.)

Examined by Mr. Garrow.

Q. Did you upon Thurſday, the 8th of March laſt, ſeize a box at Meſſrs. Sidebottom and Cook's, and apprehend the laſt witneſs Jones?

A. Yes.

Q. Did you take both the box and the witneſs to the Secretary of States Office?

A. Yes.

Q. Was the box faſt locked when you carried it to the Secretary of States Office.

A. It was.

Q. Did you ſee it broken open there?

A. I aſſiſted in breaking it open.

Q. Where is the box?

(The box was produced in Court.)

John Jones, (called again.)

Examined by Mr. Garrow.

Q. Upon ſeeing Binns in cuſtody, you went to Evans's houſe?

A. I did.

Q. To whoſe apartment did you go there in order to take away this box?

A. To the apartments that I underſtood to be——

Mr. Plumer. Do not tell us what you underſtand.

Mr. Garrow. Do you know either of your own knowledge, or from the Priſoner Binns, or from the information of any perſon in the preſence of Binns, whoſe apartment that was?

A. I do not.

Q. Do you know of your own knowledge, or from Binns, to whom that box belonged?

A. I do not.

Q. Nor to whom the apartment belonged in which it was found?

A. No.

Q. Had you ever ſeen Mr. Binns in the apartment in which this box was found?

A. Never.

Mr. Garrow. I believe your Lordſhip may relieve your note from what Schaw and Jones have ſaid.

Benjamin Hall. (Sworn.)

Examined by Mr. Garrow.

Q. I believe you live in Down Street Piccadilly?

A. I do.

Q. Do you know the priſoner, Mr. O'Connor?

A. Yes, I do.

Q. Did he, by the recommendation of any perſon, and whom, apply to you for any article in which you deal?

A. Yes.

Q. What buſineſs are you?

A. A ſadler.

Q. By whom was he recommended to you?

A. Sir Francis Burdett.

Q. Have you ſeen any ſaddlery articles, that are ſtated to have been ſeized at Margate?

A. I have.

Q. Did you finiſh the holſters?

A. Yes.

Q. And ſaddle?

A. There are two ſaddles, and I made two ſaddles for Mr. O'Connor, in 1796, theſe were made the latter end of January laſt.

Q. Are they in the packages in which you packed them?

A. I packed them in a caſe, I believe that to be the ſame caſe.

Q. Did you put any direction on them?

A. Yes, I directed them to Arthur O'Connor.

Q. You did not direct them to Colonel Morris?

A. No.

A. No.

Q. Is that your bill?

A. Yes.

Benjamin Hall,

Croſs-Examined by Mr. Dallas.

Q. You ſaid you had made two ſaddles for Mr. O'Connor, in 1796?

A. Yes.

Q. Theſe I obſerve were made the latter end of January, 1798?

A. Yes, and delivered I believe upon the 3d of February.

Q. You were deſired to be expeditious with them, for the purpoſe of his taking them with him?

A. Yes.

Benjamin Hall,

Croſs-Examined by Mr. Ferguſſon.

Q. Are thoſe hunting ſaddles?

A. Yes.

Q. Is it not a common thing to make holſters for perſons that are not military men?

A. We do frequently.

Q. You ſaw the piſtols that were with them?

A. Yes.

Q. They are not military piſtols?

A. No.

Mr. Garrow. We might call other Witneſſes to prove the hats and other articles furniſhed for Mr. O'Connor, but it is hardly neceſſary, but I will call one more.

Mr. Juſtice Buller. Is the direction upon them which you put there?

Mr. Garrow. No that is taken off.

Oſwald Strong. (Sworn.)

Examined by Mr. Garrow.

Q. You are foreman to Meſſrs. Muoys and Davies, hatters in St. James's-ſtreet?

 A. Yes.

A. Yes.

Q. Have you ſeen thoſe hats which have been repreſented to have been ſeized at Margate?

A. I have.

Q. Were they furniſhed by your houſe, and for whom?

A. Yes, for Mr. O'Connor.

Q. Were the packages in which they are now, the packages in which they were ſent from your houſe?

A. I think they are.

Q. You did not put any addreſs to Colonel Morris?

A. No, I did not know any ſuch perſon.

Mr. O'Connor. This was not an unuſual order, you have furniſhed me before with as many as this, at a time?

A. We have.

Mr. O'Connor. Do you recollect how many you furniſhed me with the laſt time?

A. In September, 1796, you had three or four hats.

Mr. O'Connor. Had I not a black cockade the ſame as that—was not it a military hat?

A. The laſt cocked hat you had, was covered with ſilk oil skin.

Q. And a military hat?

A. Yes, it was.

Mr. Juſtice Lawrence. Do you ſay theſe are the packages that you put them in?

A. I think they are.

John Revett, (called in again.)

Mr. Garrow. Look at this printed paper, upon which you have have put your name---Did you find that upon the priſoner O'Coigly?

A. I found that upon the perſon of the priſoner O'Coigly.

Mr. Garrow. This paper imports to be "The Declaration, "Reſolutions and Conſtitution of the Societies of United Iriſh-"men."—We do not wiſh to trouble the Court with hearing the Declaration read: we only propoſe to read the Conſtitution, the Teſt, and the names of the ſeveral Committees which follow.

Mr.

Mr. Plumer. We ſhall deſire to have ſome other parts of it read.

Mr. Garrow. Then we will have the whole of it read.

Mr. Plumer. There are Committees formed in every diſtrict, comprehending all the different inhabitants of the different places: I wiſh to have it underſtood, that if Mr. O'Connor had been a Member, from the extent of the plan, it muſt be generally known.

Mr. O'Connor. I wiſh to have it read, that the Jury may ſee how impoſſible it was for me to belong to a ſociety of that kind without being detected, eſpecially after the ſeizures which have been made in Ireland---I, as one, ſhould wiſh to have it read.

[*It was read.*]

"The DECLARATION, RESOLUTIONS, and CONSTITUTION
" of the SOCIETIES of UNITED IRISHMEN.

" DECLARATION AND RESOLUTIONS.

" IN the preſent great Æra of Reform, when unjuſt Govern-
" ments are falling in every quarter of Europe; when Religious
" Perſecution is compelled to abjure her Tyranny over con-
" ſcience; when the Rights of Men are aſcertained in Theory,
" and that Theory ſubſtantiated by Practice; when Antiquity
" can no longer defend abſurd and oppreſſive Forms, againſt
" the common Senſe and common Intereſts of Mankind, when
" all governments are acknowledged to originate from the
" People, and to be ſo far only obligatory, as they protect
" their Rights and promote their Welfare;---We think it our
" Duty, as Iriſhmen, to come forward, and ſtate what we feel
" to be our heavy Grievance, and what we know to be its
" effectual Remedy.

" WE HAVE NO NATIONAL GOVERNMENT.---
" We are ruled by Engliſhmen, and the Servants of Engliſh-
" men, whoſe object is the Intereſt of another Country; whoſe
" Inſtrument is Corruption, and whoſe Strength is the Weak-
" neſs of IRELAND; and theſe Men have the whole of the
" Power and Patronage of the Country, as Means to ſeduce

" and

" and ſubdue the Honeſty of her Repreſentatives in the Le-
" giſlature. Such extrinſic Power, acting with uniform Forces
" in a Direction too frequently oppoſite to the true Line of
" our obvious Intereſts, can be reſiſted with effect ſolely by
" the *Unanimity*, *Deciſion*, and *Spirit* of the *People*,---Qualities
" which may be exerted moſt legally, conſtitutionally, and
" efficaciouſly, by that great Meaſure, eſſential to the Pro-
" ſperity and Freedom of Ireland---*AN EQUAL REPRE-*
" *SENTATION OF ALL THE PEOPLE IN PAR-*
" *LIAMENT.*

" We do not here mention as Grievances, the Rejection of
" a Place-bill, of a Penſion-bill, of a Reſponſibility-bill; the
" Sale of Peerages in one Houſe, the Corruption publicly
" avowed in the other, nor the notorious Infamy of Borough-
" Traffic in both; not that we are inſenſible of their Enormity,
" but that we conſider them as but Symptoms of that mortal
" diſeaſe which corrodes the Vitals of our Conſtitution, and
" leaves to the People, in their own Government, but the
" Shadow of a Name.

" Impreſſed with theſe Sentiments, we have agreed to form
" an aſſociation, to be called *THE SOCIETY OF UNITED*
" *IRISHMEN*; and we do pledge ourſelves to our Country,
" and mutually to each other, that we will ſteadily ſupport,
" and endeavour by all due Means to carry into effect the
" following Reſolutions :---

" FIRST---Reſolved---*That the weight of Engliſh influence in*
" *the Government of this Country is ſo great, as to require*
" *a* cordial Union *among* ALL THE PEOPLE OF IRE-
" LAND, *to maintain that balance which is eſſential to*
" *the preſervation of our Liberties and extenſion of our Com-*
" *merce.*

" SECOND---*That the ſole Conſtitutional Mode by which this*
" *Influence can be oppoſed, is by a complete and radical Reform*
" *of the Repreſentation of the People in Parliament.*

" THIRD---*That no Reform is practicable, efficacious, or juſt,*
" *which ſhall not include* Iriſhmen *of every Religious Per-*
" *ſuaſion.*

" Satisfied

" Satisfied, as we are, that the inteſtine Diviſions among " Iriſhmen, have too often given encouragement and Impunity, " to profligate, audacious, and corrupt Adminiſtrations, in " Meaſures, which, but for theſe Diviſions, they durſt not " have attempted—We ſubmit our reſolutions to the Nation, " as the Baſis of our Political Faith.

" We have gone to what we conceive to be the Root of " the evil—we have ſtated what we conceive to be the *Remedy*. " With a Parliament thus Reformed, every thing is eaſy— " without it nothing can be done: And we do call on, and moſt " earneſtly exhort our Countrymen in general, to follow our " example, and to form ſimilar Societies in every quarter of the " Kingdom, for the promotion of Conſtitutional Knowledge, " the abolition of Bigotry in Religion and Politics, and the " equal diſtribution of the Rights of Man, throughout all Sects " and Denominations of Iriſhmen. The People, when thus " collected, will feel their own Weight, and ſecure that Power " which Theory has already admitted as their Portion, and to " which, if they be not arouſed by their preſent Provocations " to vindicate it, they deſerve to forfeit their pretenſions for " ever.

" THE Societies of UNITED IRISHMEN, ardently deſiring, " that the *unawed*, *unbired*, and *honeſt* part of the Community, " ſhould become one great Society of UNITED IRISHMEN, " are of Opinion, that a general Code of Regulations is ab- " ſolutely neceſſary to accompliſh that important end. For " this purpoſe, they have, after mature Deliberation, adopted " the following *Conſtitution* and *Teſt*, the adoption of which is " neceſſary for ſuch Societies as wiſh to enter into communica- " tion and correſpondence with thoſe already eſtabliſhed.

" It is earneſtly recommended to Societies, to eſtabliſh a " BARONIAL COMMITTEE in a central part of each Barony, " or ſuch other diſtrict as may be thought proper, for the pur- " poſe of correſponding with each other, by Deputation or " otherwiſe. The Societies of each Barony to be numbered " according to ſeniority, and the number of Members to be " returned to the Secretary of the Baronial Committee quar- " terly.

" New

" New Societies ſhould be eſtabliſhed by a deputation from " an old one, who are to ſee a Secretary appointed and atteſted " according to the Secretaries' Teſt.

" The blanks in the Conſtitutional Code are to be filled " agreeably to the opinion and convenience of each Society.

" CONSTITUTION.

" 1ſt. THIS Society is conſtituted for the purpoſe of for- " warding a brotherhood of Affection, a communion of Rights, " and an union of Power among Iriſhmen of

" *EVERY RELIGIOUS PERSUASION:*

" and thereby to obtain a complete Reform in the Legiſlature, " founded on the Principles of Civil, Political, and Religious " Liberty.

" 2d. The Members of this Society ſhall either be ordinary " or honorary, and ſhall not be limited to any deſcription of " Men, but to extend to all perſons who may be deemed eli- " gible.

" 3d. Every Candidate for admiſſion into this Society, ſhall " be propoſed by one Member, and ſeconded by another, both " of whom ſhall vouch for his Character and Principles, and " whoſe name ſhall be entered in the books of the Society. " The Candidate to be ballotted for on the Society's ſubſequent " Meeting, and if one of the beans be black, he ſhall " ſtand rejected.

" 4th. As a Fund is neceſſary, the better to carry into effect " the Purpoſes of this Aſſociation, each Member on his ad- " miſſion, ſhall pay to the Society the ſum of " and per Month while he " ſhall continue a Member.

" 5th. The Officers of this Society ſhall be a Secretary and " Treaſurer, who ſhall be appointed by ballot every three " Months, viz. on every firſt Meeting in November, Febru- " ary, May, and Auguſt.

" 6th. This Society, in manner aforeſaid, ſhall appoint two " Members, who, with the Secretary, ſhall act for the Society

" in

" in a Baronial Committee, which Members ſhall receive
" on each night of their attend-
" ance on ſaid Committee.

" 7th. This Society ſhall, in manner aforeſaid, appoint
" Members, who, with the Treaſurer, ſhall
" form a Committee of Finance, &c.

" 8th. At the requeſt of either Committees, or any
" Members ſigning a Requiſition, the Secretary, or if he ſhall
" be abſent, the Treaſurer, ſhall call an extra Meeting of the
" Society.

" 9th. This Society ſhall meet in ordinary every ſecond
evening, at o'clock, the
" Preſident to be choſen by a majority of the Members preſent,
" of whom ſhall be a quorum.

" 10th. Every reſpect and deference ſhall be paid to the
" Chairman. On his riſing from his ſeat, and taking off his
" hat, there ſhall be ſilence, and the Members ſeated. He ſhall
" be Judge of Order and Propriety; ſhall grant leave of Ab-
" ſence at pleaſure; ſhall not enter into Debate. If any Mem-
" ber behave improperly, he is empowered to direct an apo-
" logy, or if refractory, fine him in any ſum not exceeding
" and on refuſal to do as directed, he
" ſhall therefore be expelled the Society for

" 11th. No Member ſhall ſpeak more than twice to one
" queſtion, without leave from the Chairman.

" 12th. Every Perſon elected a Member of this Society,
" whether ordinary or honorary, ſhall, previous to his Admiſ-
" ſion, take the following *Teſt*, in a ſeparate Apartment, in
" the preſence of the perſons who propoſed and ſeconded him,
" and one Member appointed by the Chairman; or in caſe of
" Abſence of one of the two perſons, the Chairman ſhall ap-
" point another Member to act for the Abſentee; after which
" the new Member ſhall be brought into the body of the So-
" ciety, and there take the *Teſt* in the uſual form.

" *TEST.*

" *IN the awful Preſence of GOD,*

" *I*, A. B. *do voluntarily declare, that I will perſevere in en-*
" *deavouring to form a Brotherhood of Affection among* IRISH-

" MEN *of* every *Religious Perſuaſion, and that I will alſo* " *perſevere in my Endeavours to obtain an Equal, Full, and* " *Adequate Repreſentation of* all *the People of Ireland. I do* " *further declare, that neither Hopes, Fears, Rewards, or* " *Puniſhments, ſhall ever induce me, directly or indirectly,* " *to inform on or give Evidence againſt any Member or Mem-* " *bers of this or ſimilar Societies, for any Act or Expreſſion of* " *theirs, done or made collectively or individually, in or out* " *of this Society, in purſuance of the ſpirit of this Obliga-* " *tion.*

" 13th. A Member of any other acknowledged Society be- " ing introduced to this Society by a Member, ſhall, upon " producing a Certificate, ſigned by the Secretary, and ſealed " with the Seal of the Society to which he may belong, and " taking the foregoing Teſt, be admitted to attend the Sittings " of this Society.

" 14th. No Member ſhall have a Certificate but by applying " to the Committee, who ſhall not grant it unleſs the Member " is leaving his place of reſidence, which Certificate ſhall be " lodged with the Secretary on his return.

" 15th. When this Society ſhall amount to the number of " thirty-ſix Members, it ſhall be equally divided by lot;* " that is, the Names of all the Members ſhall be put into a " hat or box, the Secretary or Treaſurer ſhall draw out " eighteen individually, which eighteen ſhall be conſidered " the Senior Society, and the remaining eighteen the Junior, " who ſhall apply to the Baronial Committee, through the " Delegates of the Senior Society, for a Number, and that " this diviſion ſhall take place only in the Months of October, " January, April, and July. The fund ſhall alſo be equally " divided.

" 16th. That no Society ſhall be recognized by any Com- " mittee, unleſs approving of, and taking the Teſt, and " amounting in number to ſeven Members.

" * Societies in country places to divide as may beſt ſuit their local ſituation.

" ORDER

" ORDER OF BUSINESS AT MEETINGS.

" 1ſt. New Members read Declaration and Teſt, during " which Subſcriptions to be collected.

" 2d. New Members take the Teſt, all Members ſtanding " and uncovered.

" 3d. Minutes of preceding Meeting read.

" 4th. Reports of Committees received.

" 5th. Communications called for.

" 6th. Candidates Ballotted for.

" 7th. Candidates Propoſed.

" 8th. Motions made and determined.

" 9th. Place and Time of next Meeting appointed.

" CONSTITUTION OF COMMITTEES,

" AS ADOPTED THE TENTH OF MAY.

" BARONIAL COMMITTEES.

" 1ſt. WHEN any Barony or other Diſtrict ſhall contain " three or more Societies, three perſons from each ſhall be " elected by Ballot, conformable to the ſixth Article, to form " a Baronial Committee (for three Months); their Names to " be returned to the Secretary of the ſenior Society, who " ſhall requeſt a Deputation from the neareſt Baronial Com- " mittee to conſtitute a Committee for the ſaid Barony or " other Diſtrict.

" 2d. When any Barony or Diſtrict ſhall contain eight So- " cieties, they may form another Committee, to be called the " Second Committee of ſaid Barony or Diſtrict, provided each " contains three or more Societies.

" 3d. Baronial Committees ſhall receive Delegates from " Societies of a contiguous Barony, provided ſaid Barony do " not contain three Societies.

" 4th. That the Baronial Committee ſhall correſpond with " Societies or Individuals who have ſubſcribed the Declaration " and taken the Teſt of the preſent aſſociated Societies.

" 5th. That all Queſtions ſhall be determined by a Majority " of the Members preſent.

" 6th.

" 6th. That the Baronial Committee being regularly ſum-
" moned, the one-third of its Members ſhall be deemed a
" Quorum, and capable of proceeding to Buſineſs.

" 7th. That any Buſineſs originating in any individual So-
" ciety, ſhall at the inſtance of ſuch Society's Delegates, be
" by the Baronial Committee laid before the other Societies.

" COUNTY COMMITTEES.

" 1ſt. WHEN any County ſhall contain three or more
" Baronial Committees, two Perſons ſhall be elected by Ballot
" from each Baronial Committee to form a County Committee
" (for three Months.)

" 2d. County Committees ſhall receive Delegates from Ba-
" ronial Committees of adjacent Counties, if ſaid Counties do
" not contain three Baronial Committees.

" PROVINCIAL COMMITTEES.

" 1ſt. When two or more Counties ſhall have County
" Committees, three Perſons ſhall be elected by Ballot from
" each to form a Provincial Committee (for three Months.)

" 2d. Delegates from County Committees in other Provin-
" ces will be received, if ſuch Provinces do not contain two
" County Committees.

" NATIONAL COMMITTEE.

" THAT when two Provincial Committees are formed,
" they ſhall elect five Perſons from each by Ballot to form
" a National Committee.

" ☞ Societies firſt Meetings in November, February, May,
" and Auguſt, to be on or before the 5th. Baronial Commit-
" tees on or before the 8th. County Committees on or before
" the 25th of the above Months.

" Baronial, County, and Provincial Committees, ſhall meet
" at leaſt once in every Month, and report to their Conſti-
" tuents.

" Names of Committee-men ſhould not be known by any
" Perſon but by thoſe who elect them.

" TEST.

"TEST.

"*For Secretaries of Societies or Committees.*

"IN the awful preſence of GOD.

"I, *A. B.* do voluntarily declare, that as long as I ſhall hold
"the Office of Secretary to this
"I will to the utmoſt of my Abilities, faithfully diſcharge
"the Duties thereof.

"That all Papers or Documents received by me, as Se-
"cretary, I will in ſafety keep; I will not give any of
"them, or any Copy or Copies of them to any Perſon or
"Perſons, Members or others, but by a Vote of this
"; and that I will, at the expiration of my Secre-
"taryſhip, deliver up to this all ſuch Papers
"as may be then in my poſſeſſion."

"*CERTIFICATE.*

"SOCIETY OF UNITED IRISHMEN.

"of ———

"I HEREBY certify, that *A. B.* has been duly elected,
"and having taken the Teſt provided in the Conſtitution, has
"been admitted a Member of this Society."

N.

Sec.

John Revett,

Croſs-Examined by Mr. Ferguſſon.

Q. Beſides this printed paper and the paſſport, did you find any other printed paper upon Mr. O'Coigly.

A. I found a number of printed papers which I marked at the Duke of Portland's office.

Q. Are they here?

Mr. Garrow. We are ready to hand them over to you; if you wiſh to have them read, we can have no objection.

Mr. Ferguſſon. I ſhould wiſh to have the titles of them read if you pleaſe.

Mr. Plumer. Merely to ſhew that this paper was among a number of other printed papers.

Mr. Garrow. We do not know of any other printed paper but a French newſpaper which I hold in my hand, dated the third and fourth of September, 1792.

Mr. Ferguſſon. Do not you recollect ſeeing the Duke of Richmond's Letter to Colonel Sharman?

A. No.

Q. And Mr. Pitt's Speech at the Thatched Houſe?

A. No.

Mr. Henry Maryon, (Sworn.)

Examined by Mr. Garrow.

Q. Look at theſe four manuſcript papers, where did you find them?

A. In Mr. O'Connor's Houſe at Belfaſt, my name is upon each of them.

Mr. Garrow. We do not propoſe to read theſe—it is mark enough for you, that there are four papers ſigned Henry Maryon, found at Mr. O'Connor's houſe in Belfaſt.

Mr. Plumer. When did you find theſe?

A. On the 7th of January, 1797.

Q. That was before Mr. O'Connor was apprehended?

A. No, ſome time after he was taken up in Dublin.

Q. Was it while he was in confinement that you went to his houſe at Belfaſt, and ſeized all his papers, and theſe among the reſt?

A. I think it was while he was in confinement.

Q. Amongſt his papers you found theſe?

A. Yes.

Q. You are a conſtable are not you?

A. No, I am one of his Majeſty's Meſſengers.

Q. The papers you ſeized, you ſhewed to the Secretary of State in Ireland, in January, 1797.

A. Yes, but at the time I took them I marked them.

Q. Do you know when Mr. O'Connor was let out of priſon?

A. I do not recollect.

Mr. O'Connor. Do not you know that I was a conſiderable time

time in priſon after theſe had been taken, and had been put in the cuſtody of the Iriſh Government?

A. Yes, certainly.

Mr. O'Connor. Do not you believe I was ſix months in priſon ſubſequent?

A. Yes.

Mr. O'Connor. Did you not hear I was diſcharged after ſix months impriſonment without any proſecution?

A. I underſtood you were diſcharged by giving bail?

Mr. O'Connor. You never heard that there had been any proſecution?

A. No, I never heard that you were proſecuted.

Mr. O'Connor. Did you hear that that was an uncommonly ſevere confinement—totally ſolitary?

Mr. Garrow. We cannot hear the witneſs's judgment upon the ſeverity or the propriety of the confinement.

Mr. O'Connor. Has it eſcaped your knowledge that I was in that ſtate in cloſe confinement?

A. I have ſaid that.

Mr. O'Connor. That I was not allowed to have a ſingle perſon to come near me, did you not know that?

A. I do not know it.

Mr. O'Connor. And pen ink and paper denied me?

A. I never heard that it was ſo.

Mr. Attorney General. Here I ſhall cloſe the caſe on the part of the Crown.

The End of the Evidence for the Crown.

Mr. Juſtice Buller. Do the priſoners chooſe to ſay any thing themſelves, and will they do it before or after their Counſel ſpeak?

Mr. Dallas. Your Lordſhip will ſee that the mode which is adopted, is in order to ſave the time of the Court. After the opening of the caſe of Mr. O'Connor, and Mr. O'Coigly,

for whom Mr. Plumer is of Counſel, the Gentlemen with me will ſtate the reſpective caſes of Binns, of Allen, and of Leary. —We ſhall then call our witneſſes, and I ſhall then ſum up the whole of the evidence, ſo that the Court will only be troubled with one ſpeech for each of the priſoners.

It being now near 12 *o'clock at night, the officers were ſworn, in the uſual form, to attend the Jury, who all ſlept in one large room—and the Court adjourned to* 8 *o'clock the next morning.*

On

On Tuesday, May the 22d, 1798, the Court met, pursuant to adjournment, at eight o'clock in the morning.

PRESENT,

The Right Honourable Lord ROMNEY;
The Honourable Mr. Justice BULLER;
The Honourable Mr. Justice HEATH;
The Honourable Mr. Justice LAWRENCE; and
Mr. Serjeant SHEPHERD.

The prisoners were set to the bar.

MR. PLUMER.

May it please your Lordships, and, Gentlemen of the Jury,

I address you upon this Occasion, with a Degree of anxiety which I never felt before, when I consider what is to be the result of this day's deliberation, and what important consequences are involved in your decision; when I consider the nature of the accusation against these unfortunate Gentlemen, and under what circumstances it is brought forward, it is impossible, Gentlemen, that I should not address you with the deepest anxiety; various difficulties present themselves in the way of the defence. The nature of the charge, interesting as it naturally must be to every Englishman, and affording great danger of confounding the accused with the accusation; the temper of the times, the place where this subject is made matter of enquiry, the prejudices that have been attempted to be raised against the unfortunate gentlemen who are now standing before you, not on the part of the prosecution or by any body concerned in it, but by wicked and foolish men, who are weak enough to suppose that the public safety is interested in the conviction of these men, right or wrong, let the evidence be what it may; and let me add, gentlemen, my fears, that it is impossible that you can live in the world, and live in this county in particular, exposed as from its situation it is, to the threatened invasion of the enemy, without, in some respects, feeling that these topics have been too successfully urged; but gentlemen, I rely that you are all impressed with the impor-

tance of the duty which belongs to you, and I am thoroughly convinced will ſuffer no endeavours of any kind to warp your judgments, or prevent theſe men receiving at your hands, (which is all they aſk) a fair and impartial trial; that you will hear their caſe, as they have a right to have it heard, in this ſtage of the proceeding, with every preſumption of their innocence, till the contrary is eſtabliſhed by a verdict of a Britiſh Jury.

Gentlemen, that the public have a great intereſt that crimes ſhould not paſs with impunity, and that this crime in particular, the higheſt that a ſubject can commit, ſhould in all caſes, meet with the puniſhment it juſtly merits, I do not in the leaſt mean to controvert; but Gentlemen, I am perſuaded it will be equally admitted on the other ſide, that there is an intereſt which the public have in common, even with theſe unfortunate perſons, a much greater and more important intereſt, that thoſe who are under accuſation ſhould have a fair trial, and ſhould not be convicted unleſs their guilt be eſtabliſhed by clear and indiſputable evidence, leaving no reaſonable ground of doubt upon the mind of the Jury; that I ſay, is a much broader and a more permanent intereſt than any the public can have in the conviction of any individual, where the enquiry concerns, as in the preſent caſe, mere queſtion of fact, not involving, in any way of conſidering the ſubject, any general principles of law, becauſe, in the ſafety of theſe men, if they are innocent, that of every individual is implicated; the character and honour of Britiſh juſtice is at ſtake, which is deeply violated, not only if in any inſtance, an innocent man ſhould be convicted, but alſo if a perſon ſhould be convicted without a fair trial, without an unprejudiced conſideration of the ſubject, and where the evidence does not clearly and fairly make out the proof of the ſpecific charge alledged againſt him, ſo as to leave no doubt upon the mind of the Jury.

Gentlemen, I am perſuaded you go alongwith me in adopting theſe general principles, which I am ſure, I feel in common with the gentlemen concerned on the other ſide, and unqueſtionably with the Court, that theſe are the principles, upon which

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every individual in a Britiſh Court of Juſtice ſtands upon the iſſue for his life or death, entitled to every preſumption in his favour, entitled to have the charge againſt him made out clearly and indiſputably, before he can be ſubjected to the conſequences of a conviction.

Gentlemen, there is one ſubject in the outſet of this buſineſs, from which I am anxious to deliver your minds, and the minds of all who hear me. I am not inſtructed on the part of the accuſed, in any reſpect, to complain upon that ſubject, which was made the firſt topic of the introduction in my learned friend's addreſs to you. He was anxious to ſhew that he was called upon by imperious neceſſity (as I think he ſtated) to bring this charge under the conſideration of the Country, in order that a matter might be fully inveſtigated, in which the public intereſt was ſo deeply concerned.

Gentlemen, I freely admit, whatever be the iſſue of this day's deciſion, and I truſt it will be favourable, I am not entitled to complain that this caſe has been made the ſubject of public enquiry; on the part of the Defendants I rejoice that it has been ſo, and that that enquiry has been conducted with the induſtry employed by the Proſecutor, bringing out by parol or written evidence, every circumſtance that could bear upon the ſubject; unqueſtionably thoſe concerned for the crown were called upon to act by the ſuſpicious circumſtances, in which, I admit, theſe perſons were found; I am not attempting to conceal the imprudent and improper conduct of ſome of them, a conduct, however, very naturally accounted for, without any inference of guilt, from the alarm and apprehenſion of perſons taken up on a charge like this; but under ſuch circumſtances undoubtedly it did become neceſſary that the matter ſhould be publicly enquired into and probed to the bottom; but Gentlemen, after the ſubject has been fully enquired into, after you have had the ſatisfaction of knowing that nothing has been concealed, that the Proſecutors have been in poſſeſſion for weeks and months, of all the means of diſcovery; that they have brought before you, with proper and laudable induſtry, parol witneſſes, not leſs I think than forty in number, that every ſcrap of paper they have got acceſs to, has been pro-

duced, every quarter of this and another kingdom ranſacked, properly ranſacked, to adduce every piece of evidence and every witneſs that could be brought: I truſt gentlemen, I am warranted in ſaying, after all this, you are not to add any prejudices, preſumptions, or ſuppoſitions, beyond the fair reſult of what is before you, or to ſuſpect that there is any thing ſtill remaining behind; and ſtill leſs if, in the reſult of all that you have heard, there is nothing of that clear and convincing evidence, neceſſary to ſubſtantiate a charge like the preſent, that you ought to convict upon the ground of any latent ſuſpicion, or becauſe ſome matters are not ſatisfactorily cleared up. Some doubts remaining upon parts of the caſe, and upon ſome documents produced by the Proſecutor, which the Priſoners may not be able fully to explain; give me leave to obſerve, that it is not incumbent upon the priſoners, in any caſe, to explain on their part, it is incumbent upon the proſecutor to prove; if, in the reſult, it ſhould remain a matter of doubt, matter of myſtery, as my learned friend ſtated, it is not incumbent upon the priſoners, at the peril of conviction, to clear it up and explain it, and it would be very hard if it were ſo. If the caſe remains doubtful, unexplained, and myſterious, you are not in a doubtful, in an unexplained, and in a myſterious caſe, to convict; but the priſoners are entitled to the preſumption in their favour, that they are innocent unleſs the contrary be eſtabliſhed by proof; therefore, gentlemen, in every part of the caſe, where there is a defect of proof on the part of the proſecution, I rely upon the general preſumption, that the law makes in favour of innocence, and on the right which every Defendant has, in every caſe, to expect full proof on the part of the proſecution, before he ſhall be ſubject to condemnation.

Gentlemen, I do not ſtand here to deprecate your vengeance, if the fact be clearly eſtabliſhed; I am not inſtructed on the part of the priſoners, to palliate this dreadful offence; or to ſay that any perſon, who has been guilty of it, does not juſtly merit death in its moſt dreadful form: but conſcious of their innocence, called upon here, ſtrangers in the county, the natives of another kingdom, at a diſtance, and fugitives

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unfortunately from that country, and in the act of becoming ſo from this; ſtill they know, with what confidence they may rely upon the integrity of a Britiſh Jury; that you will not ſuffer any unjuſt prejudices to operate againſt them; that you will weigh all the circumſtances fairly; and that if in the reſult, you find all the circumſtances, that naturally have produced ſuſpicion againſt them, are either cleared up, or that in the reſult, they are not fairly imputable to them, to the extent preſſed; they are perfectly convinced Gentlemen you will make a juſt and true deliverance of them. They have put their all upon the ſtake of this day's event; they have not attempted to ſplit or divide the caſe; they have not availed themſelves of their right of ſeparate challenge; but they have all come before you at once: they have committed into your hands altogether, their lives, and every thing that is dear to each of them; becauſe they are perfectly aſſured, that whenever a Britiſh Jury have to conſider a caſe like the preſent, they will be governed by all thoſe principles which form the ſafeguards of the ſubject; and which, for the ſake of all, the law, in every caſe, throws around the perſon who ſtands in the awful ſituation of theſe Priſoners.

Gentlemen, in the duty I have to diſcharge, painful and diſtreſſing as it is, it is a great conſolation to me to reflect, that the caſe I have to diſcuſs, involves no difficulty in point of law. I ſhall not diſpute any one principle of law contended for on the other ſide; and I truſt I ſhall not ſtate any that can admit of the ſmalleſt doubt: the law is perfectly well ſettled, and it is not my duty, and certainly not my inclination, to attempt to unſettle thoſe ſolid principles, and thoſe deciſions which have for ages eſtabliſhed, what is the law applicable to the preſent ſubject.

Gentlemen, it is alſo ſome conſolation to me, though appearing for one Gentleman in particular, who ſtands in a very unfortunate predicament indeed, becauſe he is in ſome reſpect placed in this ſituation by a circumſtance that deprives him of the aſſiſtance of the greateſt talents that might have been exerted on his behalf; but it is, I ſay, a conſolation to know, that the preſent caſe is not one of that nature which calls for

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the exertion of those great talents which have been successfully exerted upon other occasions. The present is a plain simple question of fact. The task, therefore, is of an humbler nature, and better suited to the talents of him who addresses you.

In the discharge of this duty, I shall not attempt to have recourse to any extraneous topics. I shall endeavour to simplify the subject, and to present it unentangled before you. I shall consider the nature of the charge itself, the evidence, which is necessary to support it, the principles, by which an enquiry of this kind must be conducted, and the evidence that has been adduced on the part of the prosecution, in support of it: and Gentlemen it is a great satisfaction to me to reflect, that although every defect of mine, will be supplied by those who follow me: yet, that in the present, and in all similar cases, the aid of Counsel is not necessary.—Those who stand under accusation, have better Counsel to assist and stand by them, in the perilous day of Trial; they have the Court for their Counsel; they have the great security and protection of all the general principles of the law: those sacred principles which are so well described by a noble and learned Judge, in an Address to the House of Lords, upon an occasion like the present.—I mean Lord Nottingham, at the Trial of Lord Cornwallis. 'I know your Lordships, (says he,) will weigh 'the fact with all its circumstances from which it is to receive 'its proper doom. Your Lordships are too just to let pity 'make an abatement for the crime, and too wise to suffer 'rhetoric to make any improvement of it. This only will 'be necessary, to be observed by all your Lordships, that the 'fouler the crime is, the clearer and the plainer ought the 'proof of it to be.—There is no other good reason can be 'given why the law refuses to allow the prisoner at the bar 'Counsel, in matter of fact, (which was the case at that time) 'when life is concerned, but only this;—mark Gentlemen, 'what is stated by this great Judge: because the evidence, by 'which he is condemned, ought to be so very evident, and 'so plain, that all the Counsel in the world should not be 'able to answer it.' Gentlemen, remember that principle, and carry it along with you in the present enquiry. You

will

will hereafter, apply it to the evidence which has been adduced on the part of the profecution, and ſee whether it in any reſpect, comes up to the criterion, and the teſt which this great and excellent Judge has laid down upon the ſubject.

Gentlemen, in examining the charge, it is of the greateſt importance, that you ſhould carefully diſtinguiſh what is the preciſe nature of the charge, what is the gift of it, what it is that is neceſſary to be proved, without which, the charge muſt fall to the ground; and to ſeparate what is mere matter of form, which muſt accompany the charge, from that, which conſtitutes the principal nature of the accuſation.—In an Indictment for Treaſon, the nature of the charge, is the imagination and thought of the mind; therein conſiſts the guilt; and all the reſt is mere matter of evidence, to prove it; but ſuch an enquiry is obviouſly liable to great difficulty in the profecution of it. And on the one hand where the ſafety of the public is protected by making the mere imagination and thought, voluntas pro facto, in this inſtance, as it is not in any other, penal in the extreme, the law on the other hand has protected the ſubject, by requiring that he ſhould not be convicted without clear proof of ſome overt act, manifeſting that intention, and ſhewing that it is actually begun to be carried into execution, and Gentlemen, here you will recollect, what are the words of the ſtatute, upon which the preſent Indictment is grounded.

The Statute of Edward the Third, the great Statute, that has fixed the law of Treaſon for four centuries and a half, in that part, which applies to the preſent enquiry, ſtates that "Any perſon who is adherent to the King's Enemies in his "Realm, giving to them aid and comfort in the Realm, or "elſewhere and thereof"—now attend to theſe words Gentlemen—"and thereof *be provably attainted of open deed* by "people of their condition." It is not enough that there ſhould be an imagination to adhere to the King's Enemies; if it reſts merely in an abſtract thought of the mind, never carried, or attempted to be carried into execution (for I admit that if a ſingle act has been done towards carrying into execution the intent, that is ſufficient; it is not neceſſary it ſhould be

actually

actually perpetrated) but if there be no act done, consequent upon it, or if the act that is done, is not most clearly referable to that intent, and proving it, if the prisoners are not provably attainted of open deed by people of their condition, then, Gentlemen, they are not guilty to the extent of this indictment. They are not to be convicted of being adherent to the King's Enemies in the Realm, unless they be provably attainted of it of open deed.

Now, Gentlemen, remember what is the construction that has been put upon this Statute: I shall beg you to attend to the words of a great Judge, in commenting upon this statute, which can never be too often repeated, whenever this Statute is made the subject of enquiry.—I mean, Gentlemen, the explanation of it given by my Lord Coke: 'By provably, (says 'that great Judge) is meant, that it is *upon direct and mani-* 'fest proof not *upon conjectural presumptions or inferences*, or 'strains of wit, but upon *good and sufficient proof*—and herein 'the adverb provably hath a great force, and signifyeth a 'direct plain proof, which word the Lords and Commons, 'in Parliament, did use; for that the offence of Treason was 'so heinous, and was so heavily and severely punished as none 'other the like, and therefore the offender must be provably 'attainted, which words are as forcible as upon direct and 'manifest proof.—Note, the word is not probably, for then 'commune argumentum might have served, but the word is 'provably be attainted.'

I request, Gentlemen, that you would carry along with you, throughout this enquiry, this test, this guide, which is to conduct your judgment in pronouncing upon the evidence before you. Remember it must be direct and manifest proof, not upon conjecture, or presumptions, or inferences, or strains of wit. I trust you will find that the prosecutor here does rely altogether upon *conjecture* and *presumptions*, in the main part of the charge I mean, and not upon direct and manifest proof of his charge; mere conjecture, and presumptions, and inferences, which are not fairly warranted by the evidence before you.

Gentlemen, I shall beg you likewise to pay attention to

what my Lord Hale ſays upon this ſubject, he ſtates 'That, 'although the crime of High Treaſon is the greateſt crime 'againſt faith, duty, and human ſociety, and brings with it 'the greateſt and moſt fatal dangers to the government, 'peace, and happineſs of a Kingdom or State, and, therefore, 'is deſervedly branded with the higheſt ignominy, and ſub-'jected to the greateſt penalties that the laws can inflict.— 'It appears firſt how neceſſary it was that there ſhould be 'ſome known, fixed, and ſettled boundary for this great 'crime of Treaſon, and of what great importance the Statute, 'of 25 Edward III, was, in order to that end.—Secondly, 'How dangerous it is to depart from the letter of that Statute, 'and to multiply and inhance crimes into Treaſon by ambigu-'ous and general words, ſuch as accroaching of royal pôwer, 'ſubverting fundamental laws, and the like—and thirdly, 'How dangerous it is by conſtruction and analogy to make 'Treaſons where the letter of the law has not done it—for 'ſuch a method admits of no limits or bounds, but runs as far 'and as wide as the wit and invention of accuſers, and the 'odiouſneſs and deteſtation of perſons accuſed, will carry 'men.'

Upon theſe general principles it is that I conceive this enquiry muſt be conducted; they are recognized in every trial, they are ratified upon every occaſion by the greateſt authorities that have ever preſided upon enquiries like the preſent, and no caſe has been, of late years, conducted (to the honour of the preſent times I ſtate it) without enjoining the obſervance of them on thoſe who are to decide upon it. If it be neceſſary that there ſhould be overt Acts proved, to manifeſt the intent, it is obvious what the nature of theſe overt Acts muſt be; viz. ſuch as plainly evidence the intent charged, not acts indifferent in themſelves, not acts that are equivocal—not ſuch as are referable to an honeſt, a juſt, and a lawful motive,—or if they be acts of this latter deſcription, that there muſt be clear evidence, *aliunde* from other circumſtances, to faſten the particular intent charged, in order that the reaſon and principle of the law may be anſwered. The reaſon why the law requires proof of overt Acts in High Treaſon, is on two accounts —Firſt

—Firſt, That the intent ſhould be manifeſt—and next, That it ſhould have proceeded to the length of being at leaſt begun to be carried into execution.

But if you take an Act, that is indifferent in itſelf, ſuch for inſtance as the going abroad by a number of perſons, and enquire whether that going abroad be Treaſon or not? it is neceſſary that it ſhould be proved to be done with the intent, and for the purpoſe charged; and the enquiry in that caſe is not whether the acts charged to be done were done or not, but the main ſubſtantial point of the enquiry is, whether they were done with the intent and for the purpoſe, that is the ſubject of the charge?—There you find the intent and the purpoſe conſtitutes the principal part of the charge.—The acts may be all admitted to have been done, as in the inſtance in queſtion, that a number of perſons did altogether agree to go abroad, that they did ſo under circumſtances lawful or not, no matter which for the purpoſe of the preſent ſubject,—if the latter, that accounts for all the circumſtances of concealment, and endeavours to get ſecretly out of the Kingdom, but this forms but a ſmall part of the ſubject.—You are to enquire not ſimply whether theſe acts were done? not ſimply whether the priſoners treated with Jeremiah Mowle, and with Foreman and Norris, for a veſſel within the County of Kent?—Not ſimply whether theſe acts were done for the purpoſe and intent ſtated, namely with an intent to go abroad, which the acts naturally import, and reſpecting which you have heard ſo much evidence? —but there remains behind a further ſubject of enquiry, in which is contained all the queſtion between us; and upon which all the guilt is to faſten, namely, whether there was an ulterior intent to carry intelligence to the enemy? to carry a paper to the Executive Directory of France, for the purpoſe of inviting an invaſion of the Kingdom of Great Britain?

Now, Gentlemen, in a caſe of this nature, you will carefully diſtinguiſh between the proof of the acts themſelves, and the proof of the intent, that is faſtened upon them; and yet when you examine—what is all the laboured detail of proof on the part of the proſecution? What is ſpoken to by all the witneſſes who have been called? What is all the written evidence,

that

that has been collected? with the exception of one paper only, you will find all the reſt of the evidence goes to prove merely what is not diſputed—that Mr. Binns, and, if you pleaſe, under circumſtances that have fairly been made out, with the knowledge, with the privity, and on the behalf of others, did make certain treaties at Whitſtable and at Deal, with the different perſons who have been called, for the hire of a veſſel to go to parts beyond the ſeas, as ſtated in the Indictment——Well, Gentlemen, what then? What would be the fair reſult of all this? Guilty; of what? Guilty of an intent to go abroad. Theſe are overt acts of that intent, not that they, or any one of them, actually did go abroad, but that, from the acts done, the treaties that were entered into with a view to it, you are to collect this inference.

If you were called upon here to ſay, guilty, or not guilty, of certain overt acts, manifeſting an intent to go abroad; if with reſpect to certain of the priſoners (not Mr. Binns undoubtedly, for whom I am not Counſel, but whom the evidence ſeems fairly to have acquitted of any intent himſelf perſonally to go abroad) but with reſpect to the other four perſons, if the queſtion were, whether they did, or did not, in the month of February, meditate and intend to go out of the Kingdom, upon the day ſtated, and in the manner ſtated, to certain parts beyond ſeas, if that were the ſubject of charge, and all the charge, I ſhould certainly admit that a great body of evidence had been adduced on the part of the proſecution, and that in the reſult you would be fairly warranted in ſaying, we muſt pronounce a verdict againſt theſe four perſons, guilty of an intent to go abroad. But, Gentlemen, is that the ſubject of enquiry? Is that High Treaſon? Perſons may lawfully go to parts beyond the ſeas, and there may be circumſtances that may make it unlawful to go to parts beyond the ſeas. It is not lawful for an Engliſh ſubject to go to ſome parts beyond the ſeas now; for it is made the ſubject of prohibition by an expreſs Act of Parliament, conſtituting it a miſdemeanor puniſhable with ſix months impriſonment, for any Britiſh ſubject to go abroad, to France in particular, without a paſſport and without a proper licence.

If that were the nature of the charge, then, Gentlemen, you would have to enquire further, not ſimply whether they had intended to go abroad generally to parts beyond ſeas, but whether they had intended to go to that particular place, which was prohibited, namely, to France in particular; and whether they had, or not, a licence and authority to go there. If the priſoners were trying for a miſdemeanor under that act, and if the intent were made, which it is not, a crime, and could be made a ſubject of enquiry, upon that ſubject I ſhould fairly ſtate that a great deal of written and parol evidence has been laid before you, preſsing againſt four perſons, to prove ſuch a charge.——Do not miſunderſtand me, Gentlemen; I do not mean to ſtate that all the evidence of an intent and preparation to go abroad was not neceſſary on the part of the proſecution—it certainly did conſtitute a neceſſary part of the charge, a neceſſary part of the proof; but all that I am urging is this, that when the proſecutor has eſtabliſhed that part of the caſe, he has advanced a very little way in proving *that* upon which you are ultimately to pronounce your verdict, and upon which the lives of theſe five men are at ſtake.

Gentlemen, you are to ſay, not what they actually did in this country, not what they intended to do in this country; all that they did in this country was to treat for a veſſel; all that is imputed to them as having intended to do in this country, was endeavouring to procure a veſſel, in order to leave it, and go into parts beyond ſeas. That, I have ſhewn you, Gentlemen, is not Treaſon.—What is Treaſon, then? and what is the point and giſt of the accuſation againſt us?—Not what was actually done here—not what was intended to be done here—but a further and ulterior accuſation, and upon which you, Gentlemen, are, if you pronounce a verdict of Guilty againſt theſe men, to declare prophetically reſpecting an ulterior intent to do hereafter, *in another kingdom*, what they meant to do, *if* they had ſucceeded in getting abroad. This is the charge, Gentlemen, and this the part of the caſe upon which I make my ſtand. I ſay, this part of the charge is not eſtabliſhed by the proof that the law requires, and upon which you can ſafely ſtand, in a caſe of life and

death,

death, to pronounce a verdict of Guilty againſt any body. I ſay, Gentlemen, when you examine it, you will find that all this part of the caſe reſts altogether upon what my Lord Coke calls conjecture, preſumptions, and inferences, upon which you ought not to preſs in a caſe like the preſent; it is that ſpecies of proof upon which all the authorities have ſaid it is dangerous to reſt in a caſe of life, but more eſpecially in a caſe like the preſent, where undoubtedly the law has always ſtood by the priſoner, not merely for his ſake, but for the ſake of the public, in a State Proſecution, where individuals on the one ſide ſtand engaged in an unequal conteſt with all the weight and power of the Crown oppoſed againſt them. On that account it is that the law ſtands by the priſoner, and requires that the proſecutor ſhall clearly make out his caſe, and ſhall not leave it upon naked preſumptions and conjecture, upon which a Jury cannot ſafely ſay they are clear in pronouncing upon the intent of others. In this view of the ſubject it will not be neceſſary for me, on the part of the Defendants, to wade through all the evidence that has been adduced, to go through every particular witneſs, or even to examine, more than in a very general way, all the parol and written evidence that has been adduced on the part of the proſecution.

You will recollect, Gentlemen, that my learned friend, in his able and eloquent opening, went through minutely all the circumſtances reſpecting an intended journey, and an intended voyage, to leave the kingdom; all the witneſſes that were called, every one of them went merely to prove all the minutiæ of this plan; all the luggage, that is now ſpread on the table before you, all the circumſtances that have been produced, what do they tend to, but to prove all the particulars of the journey in detail: one went to this houſe, and one to the other, by ſea, on horſeback, or on foot; what hour they arrived at this place, and the other, and a number of witneſſes are called to prove different priſoners at this houſe, and at the other houſe, on this day, and the other; all which are only the minute circumſtances attending a propoſed journey and a voyage abroad; and had this been a civil caſe, I cer-

tainly ſhould, in the very outſet of it, the inſtant the other ſide had begun with a detailed proof upon that ſubject, I ſhould have relieved my learned friend by ſtating, that undoubtedly I did not mean to controvert that part of the caſe; that four of the priſoners did intend to go out of the kingdom; Mr. O'Connor and his ſervant Leary; another perſon, for whom I am Counſel, Mr. O'Coigly; and Mr. Allen. I admit that fair evidence has been given, fit to be laid before a Jury in proof that theſe perſons were all clearly connected in an intent to go out of the kingdom, and to go together.——Gentlemen, I will not addreſs you a word upon the ſubject, to inſiſt that, after the weight and body of teſtimony, parol and written, that has been adduced before you, you will not be warranted in that concluſion.

But, Gentlemen, now that you ſee what is the nature of the charge upon which all the queſtion ariſes, I beg to call your attention pointedly to the ſubject, and to aſk you to anſwer——Has the proſecutor eſtabliſhed, as he is bound to do, beyond any reaſonable ground of doubt—has he eſtabliſhed this propoſition, that the paper, upon which alone is faſtened all the imputation, was intended to be carried by any body, as the charge ſtates, and delivered to the Executive Directory of France, for the purpoſe of procuring an invaſion of England, or, as in one of the overt acts it is charged, this Realm—there is no doubt that this Realm means the realm of Great Britain—the charge againſt us, in no part of it, relates to invaſion of any other part of his Majeſty's dominions, but is altogether confined to the Realm of Great Britain; and you are, if you pronounce the priſoners guilty, to adopt this firſt propoſition, to ſay that it is clearly and ſatisfactorily made out, in proof, that this paper was intended to be carried to the Executive Directory of France, for the purpoſe ſtated, of procuring the invaſion of Great Britain; that is the firſt part of the charge—when that is proved, if it were proved, which it is not——

The next point which the proſecutor is obliged to make out is, againſt whom that charge is eſtabliſhed; and, Gentlemen, if you were ſatisfied upon the firſt queſtion, it would be neceſſary for you carefully to aſcertain what evidence affects each

each individual priſoner, becauſe each is reſponſible only for his own individual acts and intentions---You would then be to pronounce, under this ſecond head, whether it were poſſible, in any view of it, to make any body reſponſible for the paper, even ſuppoſing its deſtination to be as ſtated, whether it is poſſible, upon the fair reſult of the evidence on which you are bound to decide, to preſs any reſponſibility reſpecting that paper beyond one individual, who is alone implicated in it, who alone purports to be implicated by the paper itſelf, upon whom alone it is pretended to have been found, and without any one circumſtance to connect any other perſon now ſtanding before you in charge, not with a general purpoſe of going abroad, that is not the point, not with an intent to go out of the kingdom, that is not the queſtion, but to connect him with that individual paper, or to faſten and fix upon him, more than by general looſe ſuſpicions (much too looſe to act upon even in common life, and infinitely too looſe to act upon in a Court of Juſtice upon any ſubject, and leaſt of all in a caſe of life) the ulterior intent of carrying that paper to the Executive Directory of France, for the purpoſe ſtated. But is an intent to carry this paper in the way ſtated at all made out? I deny that it is, and I inſiſt upon it the proſecutor has not made out that propoſition.

Gentlemen, I do not mean to ſtate that here again there may not be ſuſpicions, conjectures and preſumptions; but that is not enough, when you examine upon what ground theſe ſuſpicions are entertained; that they are not of a ſufficient nature to warrant your verdict upon this part of the caſe, and to faſten upon any body, even upon the individual who is principally concerned with reſpect to that paper, that there is not enough to warrant you in ſaying you can venture to pronounce, upon your oaths, that that paper was intended to be carried to the Executive Directory of France, for the purpoſe of procuring an invaſion of Great Britain. Before I enter upon that ſubject, it is juſt neceſſary to clear the other part of the caſe, I mean that which reſpects a journey and a voyage, by ſtating, that undoubtedly you have the caſe of four perſons, foreigners in a manner in this country,

all the natives of a ſiſter kingdom, who have been, from circumſtances, that it is not neceſſary more minutely to detail, under the neceſſity of becoming fugitives from their native country, except that one of them, Leary, is the mere domeſtic accompanying his maſter, having no concern or will of his own, but merely following the fortunes of his maſter, without being in any reſpect concerned in them. With reſpect to the other perſons, Mr. O'Connor, Mr. O'Coigly, and Mr. Allen, that they had recently been under the neceſſity of leaving Ireland, and coming into this kingdom for a very ſhort time, and ſoon were under the neceſſity of leaving this kingdom alſo.

Gentlemen, I will not attempt to conceal from you, that they were actually flying out of one country, and likewiſe out of another; that they were perſons under charge, under ſuſpicion, and under accuſation. When I ſtate this, I am not afraid that it ſhould operate to their prejudice upon the preſent ſubject, that they were under charge or under ſuſpicion of a nature not like the preſent; but you all know the political diſtractions in another country; you all know in what a ſtate Ireland is, and how impoſſible it is for perſons who have taken an imprudent part in the politics of that country, which has made it neceſſary for them to leave it, to avoid the conſequences of thoſe acts; or that even if they have taken any decided, though not imprudent part, yet that in the diſtracted ſtate of that country, the circumſtances in which ſuch perſons are placed, may render it impoſſible for them ſafely to remain there; I ſay it is eaſily accounted for why perſons of all deſcriptions ſhould be emigrants from it for a time, and ſhould for the preſent exchange it, if they could, for any other country where they could ſafely and properly remain.

Gentlemen, I am free to ſtate to you that Mr. O'Connor was a gentleman of high rank in that country, of an ancient and honourable family, a nephew, as you have heard, of Lord Longueville—a gentleman who had had a ſeat in the Iriſh Houſe of Commons, who had filled the ſituation of High Sheriff for the county of Cork, and who had conducted himſelf, as a witneſs has ſtated, in a manner to merit the gratitude of his country in the execution of that high and reſponſible office. I

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am not here called upon to vindicate all the political opinions of Mr. O'Connor; he does not ſtand now in charge upon the propriety of them, nor is it a queſtion now whether he was right or wrong in the opinions that he entertained reſpecting certain reforms, which he conſidered as neceſſary to be made in that country—whatever his opinions were, he had openly and plainly declared them in his place in the Houſe of Commons; whether they were right or not, he certainly had promulgated them publicly in a manly and open way; whether, after he had done ſo, it was proper or right in him to mix in another concern, as one of the witneſſes has ſtated he did, of a leſs honourable nature, to become concerned in a public newſpaper, called the Preſs, and to make himſelf reſponſible for all the contents of that paper, and for all the libels that might at different times happen to be admitted into it; whether it was prudent or proper in him ſo to do, whether he has made himſelf reſponſible for all the conſequences of that conduct, is not the ſubject of enquiry to-day. Your acquittal of him upon the preſent charge, will not leave him the leſs reſponſible for any thing that can be brought in charge againſt him for any thing he has done amiſs in another country, or even in this, upon any other charge that can fairly be brought home againſt him; but, Gentlemen, you cannot be ſurpriſed that, under all theſe circumſtances, Mr. O'Connor had thought it right himſelf, and had been adviſed by his friends, actually to leave the kingdom of Ireland about the beginning of January in the preſent year. In conſequence of what had happened, he had found himſelf under the neceſſity of leaving that kingdom.—Why? Becauſe you have already heard what was the unfortunate ſituation of Mr. O'Connor, that he was undoubtedly an obnoxious man, who had been, as ſtated by one of the witneſſes, already apprehended, had been in cuſtody for a period of ſix months, and had been releaſed without trial, without charge againſt him, after all his papers had been ſeized in that kingdom, after they had been all in the poſſeſſion of the Crown for a period of ſix months, after he had ſuffered cloſe impriſonment for that time, and that during all that period nothing had been diſcovered againſt

him that made him reſponſible to the laws of that country; you have heard that he had been liberated without trial.

Gentlemen, when Mr. O'Connor found that his ſituation was ſuch in that country, that he was liable (the Habeas Corpus act being ſuſpended there) to be apprehended on ſuſpicion, to be ſubjected again to cloſe impriſonment, which had already greatly impaired his health, and a repetition of which would in all probability have been fatal to him—I ſay, when a gentleman had once ſuffered ſo much in that country, and was liable again to ſuffer, he could not be expected to continue there; and here I do not mean to argue whether it was right or not that he ſhould thus ſuffer, whether the ſtate of that country made it neceſſary, on the part of Government, to adopt thoſe meaſures; I am not ſtanding up here to arraign the propriety of them; all that I ſtate is, that ſuch was the fact, ſuch the ſituation of that country, that a perſon guilty of no crime, (I am warranted in ſaying Mr. O'Connor had not committed any, for if he had, undoubtedly he would have been brought to trial for it) was liable notwithſtanding to be arreſted and ſent to gaol, there to be kept a cloſe priſoner for ſix months. You cannot wonder that a gentleman, under ſuch circumſtances, ſhould think it neceſſary to quit ſuch a country.

The apprehenſions of Mr. O'Connor were heightened alſo by circumſtances that greatly tended to aggravate the nature of his impriſonment, to excite his alarm, and to ſtrengthen his fears for his preſent ſafety, and to make him dread a ſecond impriſonment. I ſhall prove, that while he was actually in cloſe cuſtody in that country, a ſort of conduct was obſerved towards him, to which, (as I truſt, Gentlemen, for the ſake of humanity, and as I have no doubt might be proved) the perſons holding the great and reſponſible ſituations in that country could not in any reſpect be acceſſary; but the fact is, that while he was in the Tower at Dublin, in no leſs than in three inſtances, one in particular under circumſtances that greatly tended to excite alarm in his mind, Mr. O'Connor was fired at by a ſentry with ball, in ſuch a way, that he very narrowly eſcaped with his life. Gentlemen, under ſuch circumſtances, when ſuch was the ſituation of the country, that a man was liable to be

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taken up and confined in close imprisonment, not merely at the peril of his health, by the ordinary effect of imprisonment, but to be subject to peril and danger while in that custody from actual force, in a case where his innocence was so clear that he was ultimately liberated without a trial, it is not to be wondered that a gentleman should endeavour to take the earliest opportunity of quitting it, and to avoid all possibility of being again placed in a similar predicament.

In the early part of the present year, Mr. O'Connor therefore came into this country; that he had no other purpose whatever than the one I have stated, viz. to avoid danger in his own, you will, I think, be clearly satisfied, from his conduct when he came here. He staid from the beginning of January to the latter end of February, a period somewhat short of two months, during which time I defy the Prosecutor to prove (indeed I may boldly state the reverse, because no proof has been adduced to the contrary) that during all the interval whilst he was here, any part of the conduct of Mr. O'Connor was in the smallest degree reprehensible, or such as to excite the smallest suspicions of his being concerned in any thing improper, either in act, in thought, or in deed. Gentlemen, the Prosecutors have had opportunities enough of knowing where Mr. O'Connor lived, with whom he lived, how he conducted himself during all that time. They have got at all his papers; you observe he has not used the precaution of concealing or destroying them; they have preserved every scrap and bit of paper upon the common subjects of life, and some of a more private nature; all are found, some in his possession, some in the possession of others, and they are all here laid before you.

I ask you now, Gentlemen, to say, whether you discover a single circumstance, from his arrival in England in the beginning of January, 1798, to his leaving London on Sunday the 25th of February, one scrap of paper, that justly fastens upon Mr. O'Connor not merely any guilt, but even suspicion of any improper, dishonourable, or even imprudent conduct; that tends to shew, during that time, he took any part in the politics of England, or mixed with any Clubs or Societies which are supposed to exist in different parts of the kingdom. Is there

the ſmalleſt proof of it? It is impoſſible for Mr. O'Connor to prove a negative, further than by the ſort of evidence that has already been given to you, namely, that his moſt confidential friends, thoſe who ſaw and knew moſt of him, never knew or believed that he was connected with any one political Society of any kind ſoever in the whole courſe of his life; he has poſitively declared the contrary himſelf, and there is no proof on the part of the Crown that he ever was. Unleſs, therefore, you preſume that he was, without proof, contrary to his own declaration upon the ſubject, and contrary to the evidence of Mr. Bell, who has ſaid that, to his knowledge or belief, it was not ſo, you muſt ſay, that during all that period of time Mr. O'Connor did not mix or connect himſelf with any political Societies of any kind whatever, good or bad, whether calculated to obtain pure and ſimple reform, or deſigned for worſe purpoſes, if any ſuch Societies exiſt in the kingdom.

But, Gentlemen, how did he conduct himſelf during this time? with whom did he aſſociate? who were the perſons he was at that time converſant with? Here you will find a moſt weighty and important part of the caſe in favour of this gentleman; you will find that Mr. O'Connor, who had come into this country in the ardent hope that he might have been permitted quietly to remain here, had undoubtedly, though he had no connexions with any part of the politics in England, dear and near connexions in this country; great and reſpectable characters in it had for a long period of time been Mr. O'Connor's moſt intimate and cloſeſt friends—gentlemen with whom it is the pride and honor of Mr. O'Connor's life to avow his connexion; I truſt they will be here by and by, and be ready to-day to avow, on their part, their cloſe intimacy, warm and affectionate attachment to him—perſons of ſhrewd and intelligent minds themſelves, who will tell you, that they never once diſcovered in any part of Mr. O'Connor's life or conduct, any thing to forfeit his title to their warmeſt and moſt affectionate eſteem, and their higheſt opinion.

Gentlemen, when I ſtate who theſe perſons are, you will find this part of the caſe to be very important, not merely in the general view of character, which ought always to have great

great weight in any caſe reſting merely on ſuſpicion and preſumption, but, in this, to be peculiarly eſſential in ſhewing how this gentleman conducted himſelf, with whom he lived, in order to negative the imputation of this foul deſign; and is further of the laſt importance, when you come to apply this part of the evidence to the paper in queſtion; for I ſhall put out of all doubt, that this evidence diſconnects him with that foul paper, and intrinſically proves that Mr. O'Connor could not poſſibly have had any concern whatever, directly or indirectly, any knowledge or privity, reſpecting the contents of it.

When I come to examine its contents, if any man breathing can ſtand up, and ſtate he ſuſpects even that Mr. O'Connor could have been baſe enough, wicked enough, fooliſh enough, to have had any knowledge, or connection or privity, of any ſort whatever, with the contents of that paper, gentlemen, I might venture to ſtate, that I would abandon all hope on the part of Mr. O'Connor. You cannot convict Mr. O'Connor, becauſe that would be in a caſe which, on the part of the proſecution, depends ſolely on preſumption and probability, to determine againſt all probability, againſt all the workings of the human mind, againſt the whole hiſtory and experience of the world, againſt all the evidence that human nature affords.

I have ſtated, that during the period in queſtion, Mr. O'Connor was in habits of the cloſeſt intimacy and friendſhip with the firſt gentlemen of this country; and I am ſure with men of liberal minds, ſuch as I have now the honour to addreſs, it will not operate, in any reſpect, to the prejudice of Mr. O'Connor, or leſſen the juſt weight that is due to the teſtimony of thoſe gentlemen whom I am about to name and to call, that they are, I do not diſpute it, moſtly of a particular political party and connection in this country. We are not now diſcuſſing the queſtion who is right or who is wrong, with reſpect to the political opinions which divide this country; it would be extremely improper to introduce any ſuch diſcuſſion into this ſolemn proceeding. I hope that all parties mean the ſame, that the ultimate object aimed at, in the conduct and opinions of each, is the happineſs, ſafety, and welfare, of their country; that though they may differ reſpecting the means,

means, that is all the difference between good, wiſe, and intelligent men of this country. Nay, the paper in queſtion, if any credence or authority were due to it, unqueſtionably proves this to be the caſe; that all perſons of any rank and condition, all perſons of any eminent ſituation in life, are conſidered as hoſtile to the great external foe of the country; that they are all united in their horror, deteſtation, and determined reſiſtance (if ever the occaſion ſhould call for their united efforts), to a man united, to oppoſe the common enemy.

I am ſure it will not operate upon your minds to leſſen the weight that is due to the teſtimony of the gentlemen we ſhall call, if, upon ſubjects of a political nature, ſuppoſing you to have ever made politics the ſubject of your thoughts, you ſhould happen to differ in opinion with theſe gentlemen. I ſtate, therefore, that Mr. O'Connor was the long, cloſe, and intimate friend of all the gentlemen that have taken an active part in parliament in oppoſition to the preſent miniſtry. I ſhall call to you, as witneſſes, Mr. Fox, Mr. Sheridan, and many other gentlemen of great character and reſpectability, to ſhew ſolely their private intimacy and connection with Mr. O'Connor, down to the very time that he left London in February laſt, receiving him at their houſes, interchanging the moſt ſocial viſits, in the manner in which the cloſeſt friends communicate, and receive one another. Undoubtedly they thought alike upon public ſubjects, they thought alike upon many private ſubjects, and it was that, and that only, which united one with the other.

This, I ſay, Gentlemen, operates negatively and poſitively; it negatives any other connection incompatible with this, and it poſitively proves his attachment and connection with all thoſe perſons who, you will by and by find, are the pointed objects of attack in the paper that is imputed to Mr. O'Connor. You will find throughout that paper, that the greateſt part of it, all the ſtrongeſt, and by much the moſt acrimonious part of it (if it was intended to be delivered, or to be ſhewn to any body), is cloſely and directly pointed againſt the beſt

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friends, the deareſt and cloſeſt connections of Mr. O'Connor, who is ſuppoſed to have been the author or approver of it, and which you muſt pronounce him to be, if you determine that Mr. O'Connor is guilty of the charge in queſtion. Gentlemen, I ſtate that Mr. O'Connor was quietly demeaning himſelf, and to this hour probably would have been employed in the ſame manner, would have continued to have lived unmoleſted in this country, and certainly not taking any part in the affairs of it. He was, in truth, actually engaged in the politics of another country, where was his proper ſphere of action. He had concerned himſelf about the politics of this country, merely from the circumſtance of his private friendſhips here with the gentlemen to whom I have alluded, and as a caſual by-ſtander.

But, Gentlemen, it may be ſaid, that the proſecutor has proved, reſpecting Mr. O'Connor, an intent not to remain here, but to go out of the kingdom; why did he intend to go out of this kingdom? If I could not anſwer that queſtion, and tell you why—if I was, on the part of Mr. O'Connor, to retain a ſullen ſilence, and to ſay to the proſecutor, you are bound, on your part, to prove, not merely what was the reaſon, but to prove, that the ſpecific reaſon alledged in this indictment was the reaſon why he was going abroad; I am not bound to diſcloſe any reaſon. If it was left altogether in doubt what other intent he had, and you do not prove, to the ſatisfaction of the Jury, the intent that you have charged, namely, that he was going to invite an invaſion of Great-Britain, though I were to be totally ſilent on the part of Mr. O'Connor, the Jury muſt acquit him. And, gentlemen, I beg you to recollect, and to retain that obſervation, becauſe you will find it not an immaterial one, as applied to many of the topics preſſed againſt this gentleman, in the out-ſet of this buſineſs, that the paper, and circumſtances attending it, throws upon the gentlemen at the bar a ſuppoſed neceſſity of explaining this or that circumſtance, is not a true conſideration of the caſe; it would be the greateſt hardſhip in the world if it were ſo, as I ſhall particularly have occaſion to obſerve, when I come to take notice of one or two papers produced upon this ſubject, and which

which alone are material for your conſideration. Reverting now to the ſubject of this intended departure from the kingdom, I ſay, if, on the part of the proſecutor, the evidence be not ſufficient to prove the intent charged, you muſt acquit Mr. O'Connor, without any poſitive evidence on his part, of what was his motive.

But, Gentlemen, I am not diſpoſed, on the part of Mr. O'Connor, nor am I inſtructed on his part, to conceal any thing from you; that is not the nature of Mr. O'Connor; if he has a fault, it is unqueſtionably the unguarded frankneſs, and unbounded liberality, of his mind, characteriſtic of the country to which he belongs, and peculiarly ſo of himſelf, an open, unguarded manner of conduct, throughout all his public and private life. Gentlemen, Mr. O'Connor undoubtedly did intend to go out of this country—why did he? becauſe he was adviſed by the beſt legal advice that the country affords, becauſe he was informed that he could not with ſafety remain in the kingdom; that he was liable, if he did, to be apprehended, and ſent back to Ireland, where he might be in danger of another cuſtody, and the poſſibility of a trial in that country. Though originally he ſuppoſed himſelf to be in a ſtate of ſecurity here, he was told the contrary by the beſt legal advice upon the ſubject; and therefore, from the moment that he received it, unqueſtionably Mr. O'Connor did, what is proved by Mr. Bell, and what I do not diſpute, inceſſantly endeavour to find means to go out of the kingdom.

But you may, perhaps, aſk for ſatisfaction one ſtep further; does he not appear here to be going out of the kingdom privately and ſecretly? does he not adopt a change of name? How is this referable to a legal departure out of the kingdom, or conſiſtent with what he had a right to do? Why does he not plainly avow it, apply for a paſſport, and publicly go, in the way that any other ſubject would, who, for any lawful reaſon, had occaſion to quit the kingdom? Here again, I ſay, it would not be incumbent upon me to go into the ſpecific reaſon. If the proſecutors do not faſten upon it the intent charged, even if it was to be left to general ſuſpicion only, what was the reaſon and motive for Mr. O'Connor having recourſe to

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theſe methods, all that you could fairly ſay would be this, that there was ſome reaſon why it was neceſſary for Mr. O'Connor to go privately out of the country, not in the regular channel, not with vouchers and documents that a perſon having a right to go would have had about him, at the time he actually went. But it does by no means follow that he was going to commit treaſon, becauſe he was going privately out of the kingdom; for if that argument could hold, no man could ever be guilty of that, which is a ſubject of charge in a particular act of parliament that has prohibited Britiſh ſubjects, without licence, going out of this kingdom into France, at the peril of committing a miſdemeanor, and being liable to ſix months impriſonment. It might always be ſaid, oh, they go out privately, there muſt be ſome illicit and improper cauſe, no man would go out in that manner who had not ſome wrong intent in it, and you muſt go the length of inferring, that every man that does ſo is therefore to be ſuſpected of high treaſon; you are to jump to the concluſion, that every man who is going to France, without licence, is to be ſuſpected of high treaſon. Proof that he intended to go ſecretly, is to be a ſufficient foundation for a Jury to eſtabliſh, by their verdict, that he did intend to commit treaſon in the foreign country to which he was deſtined. No, the law does not ſay that, the law does not reach to inferences and preſumptions in this manner; other proof muſt be given than the bare circumſtance of a private departure from the kingdom—of a concealment of purpoſe, name, object, and deſtination; ſuch are only circumſtances, and not alone fairly warranting a concluſion of a purpoſe of treaſon.

But, Gentlemen, is it not eaſily explained why Mr. O'Connor ſhould go out in this manner? If Mr. O'Connor was informed, that by ſtaying here he was liable to be apprehended by the Government of the country, was it not indiſpenſably neceſſary for him, when he was reſolved to go out of the kingdom, to execute his plan with ſecrecy? and ſurely, if you ſee one plain and obvious motive for a man's conduct, you will not look for any other. In the proſecution of the plan preſcribed to him, it was abſolutely neceſſary for Mr. O'Connor that he ſhould go without the knowledge of Government.

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He could not therefore apply for a paſſport to the Duke of Portland, becauſe that would immediately have fruſtrated his object, and inſtantly have made him the priſoner of that Government, to whom he diſcloſed his intention.—It is quite ridiculous to aſſert that meaning to go out of the Kingdom, and being adviſed that he muſt do ſo, for the purpoſe of avoiding arreſt, and impriſonment, he could ſafely go openly to Government, and declare, that he, Arthur O'Connor, wanted a paſſport to go out of the Kingdom, to parts beyond the ſeas. —Therefore I ſay it is very naturally accounted for, why Mr. O'Connor ſhould wiſh to go out of the Kingdom, and go out under the circumſtances that have appeared in evidence. —But it may be ſaid, why does not he go out alone, or accompanied only by Leary his ſervant, his common domeſtic, who had lived with him ſome time? Here he is going out with others, that is to ſay, with three other perſons, as it is charged, Mr. Allen, Mr. O'Coigly, and Mr. Binns; how happened they to go as part of his company?

Now, Gentlemen, here again permit me to have recourſe to the ſame argument that I have uſed before. If I were not able to explain to you by what accidental circumſtance, or by what projected plan, thoſe who intended to go with him, happened to be drawn into his company—Indeed, with reſpect to one of them I ſubmit to you, and it will be hereafter more fully pointed out to your attention, by his Counſel, the intent to go perſonally abroad, ſeems fairly negatived by the evidence, but with reſpect to the other two, if I were not able to explain why they were of his party, for the purpoſe of going abroad together privately, would it neceſſarily follow, that therefore they are all to be ſuppoſed to have had the ſame reaſon, to have had the ſame motive, to have had the ſame deſign for going? It would be incumbent on the proſecutor to prove that; he muſt prove the deſign of one individual of the party, and when he has proved that, he muſt connect the others with that deſign, not with the bare deſign of going abroad, but with the further deſign of going, with the treaſonable intent, which muſt be faſtened on the ſingle individual, before he can be convicted. It would be the raſh-

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eſt concluſion in the world, that becauſe four perſons either intend to go, or actually go together upon any journey, or voyage, in the Kingdom, or out of the Kingdom, the deſign of each, is the deſign of all, and that each man is reſponſible for what the others intended.

Gentlemen, I ſhall by and by have occaſion to obſerve more particularly upon that ſubject, but I ſhall only ſtate here, that you will recollect the *onus probandi* again lies upon the proſecutors, even if I gave no explanation on the part of thoſe for whom I appear. But you have probably anticipated, what is extremely obvious, and naturally accounts for theſe four perſons going together, they were all, as you obſerve, the natives of the ſame country, having all recently quitted it, had all been a very ſhort time in this, three of them under the neceſſity of leaving this country, for a ſimilar reaſon that had driven them from Ireland. This naturally brings them all united in one object, that is to ſay, in the object of going out of this country, for that they all wiſhed to go out of it I admit, ſo far they may fairly be conſidered as being united together, juſt as when any perſons are united together, in going from place to place. And it might be equally predicated of all that go in a ſtage coach or a barge together, that they are united in one deſign, in going from one place to another, though each individual may have his own private reaſon for ſo doing—But is it extraordinary that theſe gentlemen ſhould intend to go together? Is there any thing more natural, or more fairly accounted for, than the circumſtances that are now given in evidence before you. Gentlemen, therefore I freely admit ſuch to be the ſituation of things in the latter end of the month of February, when the evidence on the part of the proſecution commences.

Now, Gentlemen, give me leave to requeſt your utmoſt attention, to what ſpecific evidence has been adduced on the part of the proſecution, to carry the caſe beyond this, and to faſten upon any body, the intent charged, to go to the Executive Directory of France, and to carry the paper in queſtion. And here, Gentlemen, that I may act in the faireſt manner, and broadly, and in a manly way, meet the charge

in its fulleſt extent, I am not diſpoſed to controvert this propoſition, that if, on the part of the proſecutor, they can make out, that there was a clear deſign to carry that paper to the Executive Directory of France, for the purpoſe of producing an invaſion of this kingdom, that it is moſt certainly unqualified High Treaſon; and ought to make the individual who had ſuch a deſign, reſponſible for it; further I will admit too, that, if there was in the reſt privity of the contents of that paper, the knowledge of the deſign to carry it to the Executive Directory of France, for the purpoſe ſtated, and that they ſo went together with the perſon carrying ſuch a paper, and were actually, and can fairly be conſidered, as joint carriers of that paper, for that purpoſe, I have no difficulty in admitting, that you ought, undoubtedly, as the law is, and ought to be, to make them all implicated, and involved, in all the conſequences of this indictment.

Gentlemen, do I not fairly, and plainly, and openly, meet the law upon the ſubject? I ſtand upon the fact; becauſe I am confident, upon the fact. It is my bounden duty not, before ſuch a tribunal, to argue queſtions, that are clearly ſettled in point of law. I feel no danger in admitting that to be the law, I have no difficulty in ſaying, that with that admitted ſtate of the law, as applied to the facts which have been proved here, you cannot ſafely pronounce, that this intent is ſatisfactorily and clearly made out, upon the evidence before you, againſt any one of the priſoners. Give me leave, Gentlemen, before I enter upon the ſpecific evidence upon this ſubject, to requeſt that you particularly attend to the doctrine advanced by the higheſt and the graveſt authorities, thoſe who have had the greateſt experience in criminal law, the wiſeſt, the ableſt, and the beſt men of their day, dictating to Courts of Juſtice, and to themſelves, what ought to be the conduct of all tribunals, in matters of life and death; when they are engaged in an enquiry like the preſent, and are to form their judgment upon the kind of evidence, by which the preſent proſecution is ſupported.

You obſerve, Gentlemen, you are called upon, on the part of the proſecutor, to ſay what is the intent of another.—The intent is not viſible to the human eye; you are to diſcover it

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by circumſtances that exiſt, you are to take upon yourſelves to pronounce, reſpecting the hidden purpoſe of another man's mind, what was his intent with reſpect to all the acts which he is proved to have done.—That is an enquiry, in all caſes, attended with infinite difficulty, even in the common affairs of life, for one man to pronounce, from circumſtances, and from conduct, what was the intent of any other man's mind, with reſpect to particular acts; but, undoubtedly, the degree of the ſtrength of the caſe, will depend upon the nature of the acts, how far they do, or do not indicate, ſufficiently clearly, the intent of acts that are unqueſtionably, and certainly proved to have been done—How far they are, or are not, indicative of the intent charged.—Some acts are ſo plainly expreſſive of the intent, that Juries are fairly warranted in drawing the inference—other acts are more equivocal, ſtand doubtful, and referrible to one cauſe, or another, to one motive, or another, the concluſion then becomes more difficult; when to acts of that ſort you are to impute any particular intent, acts that are capable of being referred to a hundred different purpoſes, and motives, then it becomes a matter of great caution, to beware how far you take upon yourſelves to faſten upon thoſe acts, a ſpecific intent; how eaſily may you be miſtaken, and deceived by circumſtances, to ſuppoſe that to be the intent of another, which in truth was not.—I ſhall ſtate the doctrine upon this ſubject from the higheſt authority, and I beg you to carry in mind, when you come to conſider the evidence before you, what the greateſt authorities in the law have ſaid, with reſpect to preſumptive evidence, and how far it ought to operate in all matters of criminal enquiry.

Gentlemen, I would entreat you to attend to what, as affording a fair analogy, is ſaid by my Lord Hale, in ſpeaking of the doctrine of preſumptive evidence, how far it is ſafe, or even proper, in any criminal enquiries, to rely upon it, and what his own experience had taught him, was the danger, and the fallibility of even ſtrong circumſtances; ſuch as would have been thought to warrant the concluſion, and yet have turned out to be totally fallacious, and to have led to very unfortunate conſequences, to have ſubjected innocent men to death.—I will ſtate to you, what my Lord Hale has,

in his Pleas of the Crown, handed down to poſterity, as rules for the guide and conduct of all Courts of Criminal Judicature, upon ſubjects like the preſent.—'In ſome caſes' (ſays he) '*preſumptive* evidence goes far to prove a perſon guilty, though 'there be no expreſs proof of the fact to be committed by 'him—but then it muſt be very *warily preſſed*, for it is better 'five guilty perſons ſhould eſcape unpuniſhed, than one inno-'cent perſon ſhould die.'—He then ſtates a circumſtance, that had paſſed within his own knowledge, 'if a horſe be 'ſtolen from A. and the ſame day B. be found upon him, it 'is a ſtrong preſumption that B. ſtole him—yet I do remem-'ber, before a very learned and wary Judge, in ſuch an in-'ſtance B.' (that is the perſon found upon the horſe) was found guilty 'was condemned, and executed at Oxford aſſizes, 'and yet, within two aſſizes after, another perſon being ap-'prehended for another robbery, and convicted, upon his 'judgment and execution, confeſſed he was the man that 'ſtole the horſe, and being cloſely purſued, deſired B.' (that is the perſon found upon the horſe) 'a ſtranger, to walk his horſe 'for him, while he turned aſide upon a neceſſary occaſion, and 'eſcaped, and B. was apprehended with the horſe, and died 'innocently.'

Now here, Gentlemen, were ſtrong circumſtances, and as Lord Hale afterwards ſtates, 'perſons really innocent may 'be entangled under ſuch preſumptions, that many times carry 'great probabilities of guilt.' There were very ſtrong circumſtances there, to induce a reaſonable ground of preſumption; a man is found with a ſtolen horſe, and it may be ſaid, is not this a reaſonable ground, upon which the Jury may fairly draw an inference, that he was the man that ſtole it. But, ſays my Lord Hale, and he mentions this remarkable inſtance, that had fallen within his own knowledge—take care how you draw concluſions from circumſtances, let it be warily preſſed, becauſe often it is fallible, and leads to erroneous, and dangerous concluſions; 'therefore,' adds Lord Hale, 'I would 'never convict any perſon for ſtealing the goods of a perſon 'unknown, merely becauſe he would not give an account how 'he came by them;' give me leave to requeſt your attention, to that—'unleſs there were due proof made that a felony was

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'committed of theſe goods,'—merely that a man is found with goods upon him, and will not give an account of them,—why that, ſays Lord Hale, may induce a preſumption, that a man ſtole them, and did not come honeſtly by them, for why, (it may be ſaid,) will not an innocent man tell how he came by goods found in his poſſeſſion; but, ſays Lord Hale, 'I never 'would convict without firſt requiring that there ſhould be 'that *corpus delicti*, that there ſhould be the fact eſtabliſhed 'previouſly, of a felony being actually committed.'—So he ſays,—'I would never convict any perſon of murder, or 'manſlaughter, unleſs the fact were proved to be done, or at 'leaſt the body found dead, for the ſake of two caſes, one 'mentioned in my Lord Coke's Pleas of the Crown, cap. 104. 'page 232, a Warwickſhire caſe.'

'Another happened in my remembrance in Staffordſhire,'—Lord Hale then ſtates a remarkable caſe, that had happened within his own memory, proving the fallibility of preſumptive evidence; 'a perſon was long miſſing, and, upon ſtrong pre-'ſumptions, another was ſuppoſed to have murdered him, and 'to have conſumed him to aſhes, in an oven, that he ſhould 'not be found; upon which, that perſon was indicted for mur-'der, and convicted, and executed.'—You obſerve here, upon ſtrong preſumptions—Lord Hale ſtates it—and within one year afterwards, the man, who was ſuppoſed to have been murdered, returned, being indeed ſent beyond ſea, by the man who was accuſed of his murder, againſt his will,—and ſo, ſays he, 'though the man who was under accuſation, juſtly deſerved 'death, yet he was really not guilty of that offence for which he 'ſuffered.' Here there was unqueſtionably miſconduct in the individual, under accuſation. He had done, to a certain degree, what he was highly criminal in having done. It warranted ſtrong preſumptions againſt him, yet ſays Lord Hale in that caſe, by too raſhly drawing the concluſion, an innocent man, innocent of the particular charge againſt him, was actually convicted and executed.

Lord Hale refers to another caſe, mentioned in Lord Coke, illuſtrative of the ſame general doctrine, how warily a Jury, and a Court, ought to act upon preſumptive evidence—A very

remarkable caſe that had happened in Warwickſhire, which is familiar to every body,—'An Uncle who had the bringing up 'of his niece, to whom he was heir at law, correcting her for 'ſome offence, ſhe was heard to ſay—good Uncle do not kill 'me;—After which time, the child could not be found, where-'upon, the Uncle was committed upon ſuſpicion of murder, 'and admoniſhed, by the Juſtices of Aſſize, to find out the 'child by the next aſſizes; againſt which time, he could not 'find her.'—Here you will find that the perſon accuſed of the fact, had attempted, what juſtly created very ſtrong preſumptions againſt him;—He had recourſe to falſe teſtimony in ſupport of his defence, 'He brought another child, as like her in 'perſon, and years, as he could find, and apparelled her like 'the true child; but, on examination, ſhe was found, not to 'be the true child—Upon theſe preſumptions, he was found 'guilty, and executed—but the truth was, the child being 'beaten ran away and was received by a ſtranger, and after-'wards, when ſhe came of age to have her land, came and de-'manded it, and was directly proved to be the true child.'—This is a hiſtory that ought to make men cautious of drawing raſh preſumptions in criminal caſes of life.—Three inſtances are ſtated by Lord Hale and Lord Coke, and held out as a warning to all Courts of Juſtice, how warily they ought to preſs preſumptive evidence in matter of life. Lord Hale concludes with obſerving that perſons really innocent may be entangled under ſuch preſumptions that many times carry great probabilities of guilt—that is his inference. I do not mean to ſtate that theſe particular caſes are any otherwiſe applicable to the preſent, than for the ſake of the general doctrine laid down by Lord Hale, which is in truth the doctrine of common ſenſe, of common experience, and teaches how extremely fallible is reaſoning drawn from preſumptions, though ſtrong in themſelves, how often they lead to falſe and erroneous concluſions, and therefore how warily they ought to be adopted in any caſe, more eſpecially in a caſe of life.

Now Gentlemen, do not let it be inferred I mean to ſtate, that in no caſe is a Court of Juſtice to act upon preſumptions, let the circumſtances be ever ſo ſtrong, no, that is not the doc-

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trine, but the doctrine is this, that presumptions ought to be warily pressed, that the Jury ought to weigh them cautiously and guardedly, and to bear in their remembrance, that in their nature they are deceptive, that they may lead to erroneous conclusions, that innocent men may be entangled under strong presumptions of guilt, and that in doubtful cases, as Lord Hale says, 'Tutius semper est errare in Acquietando quam in puniendo 'ex parte misericordiæ quam ex parte justitiæ.'—It is safer to err on that side; that is the conclusion, not that you are universally forbid to act on circumstantial evidence, but that where it comes to be a measuring cast, you are to take the general presumption of innocence along with you, and not in a case of life, to infer the imputed guilt, unless the circumstances are so strong, so pointed, and so clear, that they cannot fairly be referrible to a contrary intent.

Having stated these general principles, let us examine the circumstances that have been laid before you, whether they are of a nature sufficient to warrant a verdict of guilty; how far it has been made out clearly and fairly as it ought to be to your satisfaction, that it was the intent of any body to carry the paper in question, the only paper which is pretended to have been destined for that purpose, to the Executive Directory of France. You observe, the prosecutor is in possession of all the luggage of all the persons who were stopped; there is not a suggestion in any part of the case, on the part of the prosecution; there is not a witness who has hinted at the idea, that at any period of the journey, or at any one place, there was any paper or bit of paper concealed or destroyed by any one of them; you are not to presume this, unless there be some evidence; there is indeed clear evidence to the contrary; because, if the prisoners had been disposed to destroy their papers, if they had used such a sort of precaution, unquestionably the prosecutors would not have been in possession of all the evidence they have produced, of all the most private and particular papers belonging to each prisoner; but papers of that nature are actually found, which excludes the idea that any had ever been destroyed; you are therefore warranted in believing that you have before you all the papers that these persons had in their possession of any kind whatever.

Now in the result of all the examination you have heard, and you see nothing has been left undone, and properly so, nothing has been left behind that the industry and weight of the Crown could produce, from all quarters of the different kingdoms, there is no paper of any kind whatever, destined to convey intelligence to the Executive Directory of France, except one. It is a most extraordinary circumstance, if it was the design of any body of men in this country, if any such body of men exists, calling themselves, as they are stated here, the Secret Committee of England, if it was their design to send intelligence to France for the purpose of inviting an invasion of this kingdom; it seems to me to be a most extraordinary case, certainly it is the first that ever existed in history, where so much industry should be employed, so much labour and expence undertaken, as to hire four messengers to carry one paper; one paper only is found, and that is unquestionably the only one that existed. But, gentlemen, besides let us observe, under what circumstances is this paper found, and what there is to prove, on the part of the prosecution, that it was a serious paper of the kind stated, upon which you are to venture to take away the lives of five persons.

In the first place there is not the least tittle of proof on the part of the prosecution, there is not the least suggestion that there does, in point of fact, exist any such body of men as this paper professes to come from; for any thing that is proved before you, it may be the production of some idle garretteer, the random workings of some madman, some absurd, frantic, foolish person, who was writing a paper of this absurd nature, without having any serious meaning, without having any kind of authority, connection or correspondence of any sort whatever, with the persons to whom it is addressed. You will perhaps, suppose that improbable; I state it as mere conjecture on our part, but I state without hesitation, that there being no evidence to prove that there does, in fact, exist any Secret Committee of England, you are not to presume it. On the part of the Crown they have, of course, been using all means to find out, and they have, it may reasonably be supposed, the means of discovering if there does exist such Secret Committee

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any where; no evidence has been adduced to prove that it does exiſt, and therefore I have a right to ſay that it ſtands on mere preſumption, except as it is proved by the paper itſelf. But whether the paper actually was written by one individual, unconnected with any body, whether written for the purpoſe of miſchief, or for any other wild, abſurd, or extravagant purpoſe, I ſay, reſts altogether without any proof on the part of the proſecution; if, therefore, there be none on mine, we ſtand in this reſpect on an equal footing. But it does not ſtand indifferent upon this ſubject, for the paper itſelf, and the circumſtances under which it was found, furniſh fair negative evidence, that it did not and could not come from any body of men whatever, conducting themſelves with ordinary caution and prudence in the proſecution of the ſuppoſed plan, or even with common ſenſe, and the ſame argument applies to thoſe who had the charge of it.

If it was a paper of the deſcription charged, ſent by a body of men, conſtituting the Secret Committee of England, to the Executive Directory of France, this will be admitted to me, that no man could be the carrier of it without knowing the perſonal danger to himſelf; he muſt have known, that in caſe of his apprehenſion and this paper found upon him, he would certainly forfeit his life. Will you believe then, the bearer of it, if he had known it to be a paper of that deſcription, would not have adopted ordinary caution for his own perſonal ſafety, much more if many lives were known to be at ſtake; ſurely, I ſay, that ordinary caution and ordinary care at leaſt would have been uſed on two accounts: firſt, becauſe if it was a paper of ſufficient conſequence to have a meſſenger employed in the tranſmiſſion of it, it was neceſſary for the ſafety of the paper, and for the object of the miſſion conſtituting the ſole purpoſe of it, that it ſhould be protected with peculiar care; next it was neceſſary that care and caution ſhould be uſed for the ſake of the individual or individuals who were entruſted with the conveyance of it. Now, does there appear in any part of this buſineſs, from the evidence given by the Crown, ordinary caution to have been uſed with a view to either of theſe objects?—Was there ever a meſſenger employed in a pur-

poſe like this, and eſpecially one, who as is ſuppoſed by the contents of the paper, to have been a perſon practiſed in ſuch an employment, to have once before been the bearer of a ſimilar paper, and therefore knowing the ordinary caution neceſſary to be taken with regard to it, who was guilty of ſuch raſh, imprudent, mad, and fooliſh conduct, as upon the hypotheſis of the proſecutor, all the individuals ſtanding here accuſed before you, did conduct themſelves with in reſpect to this paper.

You find, from the evidence adduced, on the part of the proſecution, that after they had arrived at Whitſtable, on Monday the 26th of February, even the firſt day after their arrival, a circumſtance happened, that would have put them upon their guard, that pointed out to them, even if before hand the nature of their errand and their miſſion did not dictate particular caution, they were rouſed to it, if they were inſenſible before, by a circumſtance that happened in the firſt commencement of this deſperate undertaking, pregnant with danger every ſtep they took. They were endeavouring, you obſerve, to go with circumſtances of concealment with reſpect to themſelves, and the object of their voyage, but not with reſpect to this paper.

With reſpect to the voyage, by which they mean to go ſecretly out of the kingdom, they adopt all the ordinary means of caution. Would you not therefore expect from the ſame men, ordinary caution to be obſerved with reſpect to an object of greater moment. Firſt, I ſay, generally upon ſuch an occaſion, men of all deſcriptions would be cautious; but next, when I ſee theſe men cautious upon all other ſubjects, and thoſe of leſs moment, of a leſs preſſing nature, in every point of view, I am led to expect from them, upon the hypotheſis of their being bearers of a treaſonable paper, at leaſt ſimilar caution with reſpect to that important paper; but if they were not ſenſible of the neceſſity of ſuch vigilance before, ſurely the dulleſt mind, a mind that never had been employed in a buſineſs of this kind before, would have been rouſed to peculiar caution by the circumſtance that happened on Monday morning at Whitſtable. Is it not proved that on that morning a circumſtance happened that intimated fairly to them all, that they were ſuſpected perſons;

ſons; that they were known to be there; that the eyes of the public officers were upon them; that they were watched; that they were liable, every ſtep they took, to be apprehended and ſearched? nay, it appears that at Whitſtable, they actually *were* ſearched. You recollect it is proved, that Mr. King, the revenue officer, and the other perſons who came with the luggage from on board the hoy, inſiſted upon examining the contents of the luggage at Whitſtable, and that after they were gone, or rather at the time, the landlord apprized ſome of the priſoners of their future danger, and told them that they might expect to be ſearched at Margate. Knowing then that they were become the objects of ſuſpicion, and noticed by the public officers of Government, in conſequence of the circumſtances that had happened, they were called upon, from thenceforth at leaſt, if they had not been up to that time, to be more particularly cautious during the remainder of the journey.—How then can you poſſibly conceive that theſe men could be conſcious, that there was in the pocket of one of them a paper of this deſcription, and that no means ſhould be employed to put it out of the reach of being taken in the event of their being apprehended and again ſearched; would not ſome of the beſt means have been adopted for this purpoſe, ſuch as eaſily ſuggeſt themſelves to perſons who are in the habit of being bearers of papers of this dangerous nature, to put it beyond the poſſibility of detection.

A thouſand means might eaſily have been adopted to make it impoſſible, in caſe of a ſecond ſearch, to have faſtened upon them a ſingle circumſtance relative to this paper; it was extremely eaſy for an individual to have put it into a cypher known to himſelf, which he might have tranſlated afterwards when he arrived in France, in a way that had he been apprehended, and the cypher deſtroyed, it would not have been poſſible for any individual to have known what was the nature of the paper actually conveyed; but here is a paper not in cypher, not in any diſguiſed epithets and language, but in plain direct terms, treaſon in every line of it; if it was a genuine paper, being what it purports to be, from a body of men here, addreſſed to the Executive Directory of France, which every man that

ſees

ſees it, inſtantly obſerves, is plain, palpable, direct treaſon, and points out thoſe to be traitors who have it. What now is the conduct of thoſe who are ſaid to have the care of it?—Where do they put it for the purpoſe of ſecure cuſtody, care and concealment? In a great coat pocket: Why gentlemen is it poſſible to conceive that any one place could have been thought of more liable to danger than that was; the clothes, the moſt conſpicuous when worn, yet liable at any time to be ſeparated from the perſon, and in the event of danger not at hand to have its contents deſtroyed. What, were theſe four bearers of a treaſonable paper, upon the face of it undiſguiſed treaſon, apprized of danger, expecting, and apprehending ſearch, at Margate, and has not any one of them common ſenſe or common caution, to adopt better means of concealment, or find a place to put it in better than the great coat pocket of one of the individuals concerned?

Gentlemen, I ſtate this to be a very ſtrong circumſtance to ſhew, that in the judgment of the perſon, to whom it was known to be there, it muſt have been conſidered as an idle paper, of no conſequence, or validity, and not of the important nature that it is now repreſented to be: and therefore mixed with common papers, in a place of the leaſt cuſtody, or ſafety; but if this great coat did contain a paper, of this value and importance, ſurely, ſome particular caution would have been obſerved with reſpect to the care of that great coat, when the party were at Margate, where they expected to be ſearched, where they knew they were watched: ſurely, they would at leaſt, if the paper was to be left in a great coat pocket, have put that great coat where it would not at once, ſtrike the eye of the firſt man that came into the houſe. Now let us ſee, what is the account given of it.

Why, Gentlemen, Mr. Fugion, and Mr. Revett, two Bow Street Officers, upon whoſe teſtimony you are intirely to depend; as to the proof that any ſuch paper as this, was actually found in that great coat pocket; relate that upon their coming into the room, a common room in a public Inn, (I do not ſpeak of its being common, in the ſenſe of being acceſſible to more than one party, but I mean in this ſenſe common,

mon, that any other party, of any deſcription of perſons, might have occupied it, when not engaged by the individuals, that had been there over night:) a room where the company had ſupped the preceding evening; and where they were to breakfaſt in the morning; they find hanging upon a chair, a great coat, with this important paper in the pocket of it.

Why, Gentlemen, during the whole night, was that room locked? was it ſecured? were any means taken to prevent any mere ſpectator, the waiter, even if he had not been ſo attentive as to hear the ſcratching of a pen, through a lattice in the next room, but a man who has the ordinary curioſity of a waiter, from examining the great coat, and inſpecting the paper. In a public Inn at Margate, a ſea port town, acceſſible to all deſcriptions of perſons, conſtantly coming in and out, at all hours of the day and night, if any party, after theſe gentlemen had left the room, and were gone to bed, or any individual ſeeing a looſe great coat, had from motives, either of curioſity, or from a wiſh to pick the pockets of it, examined what it contained, might inſtantly have got the poſſeſſion of this paper, which, according to the charge in this caſe, might ſubject to death, four perſons who were ſleeping in the adjoining rooms.

Surely it is impoſſible to reconcile this with the ordinary caution of men, concerned in any purpoſe, and much leſs in a purpoſe of this nature; ſurely, they would at leaſt have done that, which natural caution would have dictated; when they went into their bed-room at night, they would have carried the great coat with them, or ſome of them, for concealment or better care, and to keep it from any caſual obſerver: and therefore, the leaving it in that expoſed ſituation, adds extremely to the improbability, of a conſciouſneſs in any body, that there was any thing of weight, or importance, in the paper itſelf, that ſhould dictate caution with reſpect to it.—Firſt, becauſe of its being merely put in a great coat pocket; next, left looſe in a common room, and expoſed, to be found in the manner the witneſſes have deſcribed it.

But, Gentlemen, the contents of the paper, ſeem to me to negative all reaſonable ground, to ſuppoſe that it could have

have been written in the way alledged, and addreſſed by any body here, to any well informed and intelligent people in France, for the purpoſe ſuggeſted. It is ſuppoſed, that a Secret Committee formed in England, was meditating the horrid and wicked purpoſe, of inviting a ferocious enemy to invade this country; that they hired a meſſenger to carry intelligence to the enemy.—Why, Gentlemen, ſurely it will not be ſaid, that, if ſuch a body exiſts, they do not know what all the world beſides does, the character and deſcription of the perſons to whom they are writing; that, at leaſt, thoſe men, abandoned and profligate as they are, upon many ſubjects, have ſenſe, and underſtanding, and experience in ſtate matters—as their ſucceſſes againſt almoſt all Europe muſt evince, and that therefore, any perſon being wicked enough to addreſs them, would, at leaſt, do it in a way that was likely to gain attention, in a way likely to be of ſome uſe to that Directory. Men do not engage in treaſon for nothing, they do not hire a meſſenger to carry merely high ſounding epithets, pompous ſentences, and bombaſt phraſeology of language; or to convey raſh and general inferences and concluſions; without any detail of facts, without any minute intelligence that could be of importance to an enemy. No man concerned in a plot, to invite an enemy to invade a country, could be fooliſh enough to ſend intelligence not worth having.

But at the particular period, when this paper is ſuppoſed to have been ſent, to be put into the hands of the Executive Directory of France, was the Invaſion of England a new idea? Did the enemy never think of it till it was put into their heads, by the Secret Committee of England, in the month of February, 1798? Are theſe perſons to ſend a meſſenger over to France, to point out the Invaſion of England, as a happy thought, a new plan? Is it not matter of public notoriety, that the Executive Directory had threatened the Invaſion of England, whether with an intent to proſecute it, or only as a meaſure in terrorum; or for any other purpoſe, for a length of time before; nay, they are even in this paper, applauded for their public proclamations, iſſued for months together;

together; announcing to the whole world, that they had had that ſubject under their anxious conſideration; therefore, it could anſwer no purpoſe, to ſend any paper by way of ſuggeſtion or hint on this ſubject. But, it may be ſaid, it was not to ſuggeſt the idea, but to encourage France to carry it into effect; to pat them on the back, and induce them to proſecute their intended purpoſe. Well, then, if that was the wiſh, ſurely they ſhould addreſs to that Directory, topics likely to induce them to adopt the meaſure recommended, or at leaſt, to perſevere in it. Is there one word in this paper, from the beginning to the end of it, (and I beg you to read it by and by, for that purpoſe) adapted to this object? Does it contain one ſyllable of intelligence, that the Executive Directory of France muſt not have been actually in poſſeſſion of, (able as they are to reaſon upon the caſe) is there any ſpecific intelligence of facts, which the Executive Directory of France might not derive a knowledge of, by the means they are known to poſſeſs, of getting at all that paſſes publicly in this kingdom? I mean public meaſures, actually going on in this kingdom. We all know it has been openly ſaid, by one of the miniſters of the country, and therefore it can be no ſecret, that there are, in this country, among foreigners that reſide here, as many ſpies of the Executive Directory of France, as France chooſes to pay. But, upon ſome ſubjects they do not want ſpies. With reſpect to the ſtate of the finances of this country; the exact ſtate in figures, with reſpect to all the public ways and means of the kingdom, they want no ſpies, nor any meſſenger from a Secret Committee: they have knowledge upon that ſubject, more preciſe and accurate than any ordinary perſon can give them; and certainly much more than this paper conveys: therefore, when this paper ſtates by way of intelligence, to the Executive Directory of France, that the ſyſtem of borrowing is at at end, that the Government has tried to raiſe a kind of forced loan, which has failed; that every tax diminiſhes that revenue it was intended to augment, and that the voluntary contributions produce almoſt nothing. I ſay that ſuch could not be any ſpecific intelligence, to the Executive Directory of

France,

France, which they had not already obtained without it. They knew from other ſources, how far the ſyſtem of borrowing was at an end, how far a forced loan had been tried, and how far contributions had ſucceeded or not. The paper is merely a comment upon facts, not a detailed ſtatement of any thing ſpecific, which ſuch Committee of England, might know, and which the enemy did not.

With reſpect to the ſtate of the kingdom, it is the ſubject you all know, of a ſpeech publiſhed in the papers, ſetting forth in detail, all the means and ways of the kingdom, all its reſources, all the means by which a revenue is to be collected, and the application of it. All ſuch intelligence could be got therefore from the public newſpapers; and you will not ſuppoſe, that the Executive Directory of France, would have thanked any body for high ſounding comments or concluſions, without the diſcloſure of any one fact, which they did not know before. If this paper had been intended to be addreſſed to the vulgar, to hold out general ideas to the mob, to captivate or delude the ordinary claſs of people; then it might be ſaid, this generality will paſs. There are well rounded ſentences, calculated to tickle the ears of perſons who do not inveſtigate correctly, and who may be induced to act upon ſuch materials. But that is not the caſe with any Secret Committee, ſending intelligence to the Executive Directory, fit for their inſpection, and proper for them to act upon: they could only hope to make the tranſmiſs valuable, to make it an object of attention, by the communication of facts not known to the Directory before; by putting them in poſſeſſion of facts material for them to know, and which, when ſifted and inveſtigated, afford ſolid and reaſonable grounds for them to act upon.—The paper then ſtates with reſpect to the contributions, that they have failed, that the poor workmen have been forced to contribute, under the threat of being turned out of employ, that the army have been called upon to give a portion of their pay to carry on the war, by far the greateſt part have peremptorily refuſed to contribute to ſo baſe a purpoſe; and the few that have complied, have in general been cajoled or reluctantly compelled

pelled to it. Now I remark here, that the ſtate of the contributions of the kingdom, how much had been actually collected, what perſons had ſubſcribed, in what part of the kingdom, by what claſs of men, workmen, manufacturers, army, navy, rich and poor, and all deſcriptions of men, with the exact ſums they had actually ſubſcribed, in every part of the kingdom, was matter of as much public notoriety as the public papers could make it in town and country: upon this ſubject of the contributions, therefore, the Executive Directory muſt have been poſſeſſed of the moſt accurate intelligence.

My learned friend ſtated as to this paper, that the falſity of it, aggravates its malignancy. I inſiſt the palpable falſity of it, addreſſed to thoſe who muſt know the falſity, is deciſive evidence, that it was not intended for their inſpection. Would not the Directory have felt themſelves inſulted inſtead of informed, diſcouraged inſtead of encouraged, if all the intelligence that could be ſent to induce the invaſion of the kingdom; was ſuch as they knew to be bottomed in falſehood? In that way, the argument ſeems to me to preſs.

The Executive Directory muſt have known that all ranks and deſcriptions of men had freely and voluntarily contributed in aid of the war; and the declaration made in this paper, by the ſuppoſed Secret Committee of England, that the people of England had not ſubſcribed, or that their motives were ſo, and ſo, could not have obtained credit for a moment. The fact ſpoke the contrary; the French muſt have known that there were near two millions actually ſubſcribed, and recollecting that their own ragged ſubſcriptions amounted to but a few hundreds, would they have conſidered this as proof that the people of England were ready to receive a foreign force? They muſt have ſaid, why do you thus inſult us? This may do for the vulgar eye, but we know the fact of the actual amount of the contributions, all the perſons, and all the circumſtances connected with it.—It is matter of public notoriety. You come here pretending to deceive us by ſtating what is notoriouſly and obviouſly, to the whole world, falſe. You come attempting to impoſe upon our credulity.

You

You ſuppoſe that we are ſuch dupes, as having our eyes upon England for months, intending to invade it, that we do not yet know what is the ſtate of the commerce of England, what is the ſtate of the contributions, a fact known to every peaſant in France. Do you expect to impoſe upon us with this abſurd paper to aid and direct our deciſion on the important meaſure, whether we ſhall or ſhall not invade the kingdom of Great Britain? Nor is this all, Gentlemen, I inſiſt, the paper is upon the face of it ſo abſurd and ridiculous, that it could not impoſe upon the credulity of any man living who reads it throughout, for every ſentence ſhews the abſurdity and folly of it.

Mark the abſurdity of the enſuing paſſage, addreſſed to men of common ſenſe who are to read it 'The army and the navy, 'the greateſt part have peremptorily refuſed to contribute to ſo 'baſe a purpoſe, and the few that have complied, have in gene-'ral been cajoled or reluctantly compelled to it.' What, with a majority againſt it, compel the army to it! Who compels them; who can compel them to a meaſure to which they are not forced by law, to a meaſure of pure volition? How abſurd, to repreſent to the Executive Directory of France, that although all the army and navy, all the ſtrength and force of the kingdom, are againſt the ſubſcription, notwithſtanding they are not compelled by law to it, the few that have complied, have, in general, been cajoled or reluctantly compelled to it.—Gentlemen, that is ſo impoſſible that it carries upon the face of it a plain, palpable contradiction, and if addreſſed to men of common ſenſe, it muſt inſtantly have negatived the aſſertion it contains. It could not be otherwiſe: it ſpeaks for itſelf. In a plan of voluntary contribution—ſome might concur as a teſt of their patriotiſm and attachment; but it could not be matter of force; nor could it be believed to be ſo, by thoſe who muſt have known how many large bodies of the army and navy had contributed.—A mere general aſſertion like this from any body, and ſtill more from ſuch a body as this, ſtating ſuch general, falſe, and abſurd intelligence as this, could only have defeated itſelf, and have prevented any credit being paid to the paper or the bearers of it.

But

But Gentlemen, in what follows, there is ſtill ſtronger evidence, that this paper could not poſſibly be intended, as is ſuggeſted, for the uſe of the Executive Directory of France. It is ſuppoſed that it was ſent for the purpoſe of inviting the Executive Directory of France, to invade the kingdom; and to have been intended to furniſh reaſons why they ought to invade it. I have already obſerved, in part, on what is ſtated by way of inducement, to the Executive Directory of France; and how impoſſible it was for it, in the leaſt, to operate upon the minds of any plain ſenſible men, examining this paper, and acting with ordinary prudence upon the ſubject of it.---But, let us further ſee, what is the encouragement held out by this paper to the Executive Directory of France to invade this kingdom; in ſome part of it, it is endeavoured to be repreſented that the people of England are waiting with anxiety to receive the Army of France upon the Coaſt of England, to co-operate with them.---Now other parts of the paper contain contradictions of that inducement, ſo plain and obvious, that it could not but operate, upon any intelligent mind, in a way to produce the directly oppoſite impreſſion. And ſuppoſing, for a moment, that this paper had actually been addreſſed and carried to the Executive Directory, they would have ſaid this is plainly a paper ſent by your Government to us to deceive us; it cannot be ſent by any ſincere and real friends of ours.---It muſt have appeared to be a mere trick practiſed upon the Executive Directory, to induce them to make an attempt which could not ſucceed, ſo ill concealed that it detects itſelf.---For what does it tell the Executive Directory of France, upon ſubjects on which they had as ample means of information as the writer of the paper, namely, reſpecting the ſtate of parties in this Kingdom?

It plainly implies, in the firſt place, that the writer of this paper, and whoever is concerned in it, conſtitute a diſtinct party, ſeparated and detached from all thoſe generally diſtinguiſhed as the principal parties in the kingdom. I ſhall hereafter have occaſion to ſhew how material this is for your conſideration in every point of view.---You will obſerve, it is quite clear, that

the paper is written by ſome perſons, if written for any public purpoſe at all, hoſtile to all the leading intereſts in the Kingdom, to all perſons of any rank, all of any worth in the Kingdom, all who have taken any part in public meaſures: and that it is more particularly pointed againſt thoſe perſons who have taken the moſt active part in the Oppoſition, as it is called, in Parliament: It plainly and unequivocally points out to France—you are to underſtand that we, the writers of this paper, are a diſtinct body, and totally deſpair of having any one leader of rank or conſequence in the kingdom; we deſpair of receiving any ſupport from thoſe who have taken the moſt active part in the public affairs of the Kingdom: for, with reſpect to them, we fairly and broadly tell you they are all, to a man, perſons who have mixed in the ranks of the people,---there they will remain; that not one of them is worthy of the ſmalleſt degree of credit or confidence from us, who write this; not one of them, from henceforward, to be conſidered as otherwiſe than hoſtile to us, and conſequently hoſtile to the purpoſe of this paper.---See whether that is not the fair report made in this paper; whether the expreſſions, and whether the principal object of it, if there were any object in it, be not manifeſtly calculated to do a way any hope that the enemy might have of internal diſſentions between the principal men of the Kingdom; to deſtroy any hope they might entertain of countenance or ſupport, of any ſort whatever, from any perſon of rank or fortune in the Kingdom. The party, uſually acting in ſupport of Government, France could have no hope or expectation of being in any reſpect favourable to them; nor would I be underſtood to imagine that any body could be fooliſh enough to ſuppoſe, even without the teſtimonial of this paper, that the other great and reſpectable characters, to whom I have alluded, could ever be guilty of a deſign to countenance or encourage the hoſtile invaſion of this Kingdom; but I ſay, that if the Executive Directory, or any perſons in France, could have entertained a deluſive hope upon that ſubject, that there exiſted any one man, among the Members of the oppoſition, favourable to this traitorous purpoſe; this paper was expreſsly calculated to negative ſuch a ſuppo-

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ſition, and to remove any ſuch hope; and therefore to deſtroy one of the grounds upon which France could be induced to invade this kingdom.

Gentlemen, attend to this paſſage: 'Parliamentary Declaimers have been the bane of our freedom; national plunder was the object of every faction, and it was the intereſt of each' (without any diſtiction, obſerve) 'to keep the people in the dark;---but the deluſion is paſt.---The Government has pulled off its diſguiſe,' (mind what follows) 'and the very men, who under the ſemblance of moderate reform, only wiſhed to climb into power' (clearly perſons, therefore, who were not now in power, and perſons who had been the favourers of moderate reform) 'only wiſhed to climb into power, are now glad to fall into the ranks of the people! Yes, they have fallen into the ranks, and there they muſt for ever remain! for Engliſhmen can never place confidence in them.' There is open war declared between the writers of this paper, and whoever was concerned in it, and all perſons of the deſcription alluded to. It goes on to declare, ſtill more pointedly and ſtrongly, their diſapprobation of them, contraſted with thoſe with whom they (the writers of this paper) have connected themſelves, and from whom they have hope of aſſiſtance. 'Already have the Engliſh fraternized with the Iriſh and Scots, and a Delegate from each now ſits with us.' It then expreſsly ſtates, with reſpect to England, 'Fortunately we have no leader; avarice and cowardice have pervaded the rich, but we are not therefore the leſs united'—written by the poor, I take for granted, perſons who were not themſelves of the deſcription ſtigmatized—'Avarice and cowardice have pervaded the rich, but we are not therefore the leſs united'—we conſequently are not of that deſcription.

Then it goes on more decidedly to mark out the members of the oppoſition—'Some few of the opulent have indeed, by ſpeeches, profeſſed themſelves the friends of Democracy;'---Now, who can they be? In their interpretation, unqueſtionably, that muſt be deſcriptive of thoſe who have made the ſtrongeſt public declarations upon any ſubject, which the writer of this paper conſidered as favourable to the friends of

Democracy; even with reſpect to thoſe who have taken the ſtrongeſt part in their favour, they mean to declare that they have not the leaſt hopes of any ſupport from them: for they go on to ſtate—'but they have not *acted*, they have conſidered 'themſelves as diſtinct from the people, and the people will, 'in its turn, conſider their claims to its favour as unjuſt and 'frivolous; they wiſh, perhaps, to place us in the front of the 'battle, that unſupported by the wealth they enjoy, we may 'periſh, when they may hope to riſe upon our ruin.'—Mark, throughout, it is clear, that if the paper comes from any body of men, it is from perſons in the loweſt ranks and deſcriptions of life; 'they wiſh, perhaps, to place us in the front of the 'battle, that, unſupported by the wealth they enjoy, we may 'periſh, when they may hope to riſe upon our ruin.'—Gentlemen, attend to this, 'But let them be told, though we 'may fall through their criminal neglect, they can never hope 'to rule, and that Engliſhmen, once free, will not ſubmit to a 'few political impoſtors.'—Here you obſerve plainly, there is a direct attack upon all thoſe perſons, who had taken the moſt decided and open part, upon any occaſion, any where, either in Parliament or out of Parliament, who had any where publicly avowed ſentiments moſt favourable to the friends of Democracy: all are indiſcriminately given up; not one leader is to be found amongſt them; not one man among them is deſerving of confidence they are all ſwept away in one undiſtinguiſhed maſs. They are all *political impoſtors*; perſons unworthy of credit, and who are plainly held out by this paper, in the event of a Revolution taking place, as deſerving to be buried in the general wreck and ruin. —Not, indeed, to be left to the general fate of others, who have uniformly and openly declared their ſentiments throughout adverſe to Democracy, but they are to be particularly noticed as *impoſtors*, men who had deluded the people, and who, therefore, in the event of any invaſion of the Kingdom, would be particularly marked out to the vengeance both of the enemy and of their country—and particularly of all the perſons, if there was any plurality of perſons, concerned in penning this idle, fooliſh, and malicious paper.

Theſe will, I truſt, appear weighty arguments, to ſhow that

that the contents of this paper, as applied to an invaſion, would, if it had been delivered to the Directory, have led France to deſpair inſtead of hope. It told them plainly, that all ranks of people in this country, all the men of conſequence, wealth, opulence, and power in it, all who had taken any part in the politics of it, were hoſtile to them, and hoſtile to the ſuppoſed purpoſe of this paper.—Is this encouragement to an enemy to invade the country? How would any enlightened mind reaſon upon this? What would any perſons, in France, who had long been looking at this country, and who had long known it intimately and accurately, conclude, on being told, that all the men of rank, all the men of property, parties of all deſcriptions are united; that it is only amongſt the loweſt dregs of the community there can be any poſſible hope of ſupport? Could that be conſidered as encouragement to an enemy? Does it not decidedly intimate to them, give up your weak and abandoned project? It is all over, you can never hope for ſupport here; men of property and rank of all parties, are equally adverſe and hoſtile to the meaſure of an invaſion. Is this calculated to encourage, or directly the reverſe? I ſay, that if this paper had been delivered to the Executive Directory of France, they muſt have reaſoned thus upon it: You pretend to hold out to us, in general terms, that you are friendly to an invaſion; you ſtate concluſions of fact, about the contributions, which we know to be falſe, and you ſtate as a motive to encourage us to invade the country, that all parties who have any property are againſt us. A hope, that they might have ſome leader, who was friendly to an invaſion, might have afforded ſome encouragement, but even this is negatived.—Is it poſsible that more diſcouraging intelligence could be ſent? Muſt not the Directory have inſtantly known, that in this great country, where property is, comparatively ſpeaking, ſo equally diſtributed amongſt all ranks of men, that they would have, if they attempted to execute their wild project of an invaſion, to contend, not with one particular claſs of men, but with the united power that reſults from the influence, the dependance and the attachment which property, thus diffuſed, creates in this country.—Muſt they not have

known, that the inſtant England is united in itſelf, the inſtant that all parties and deſcriptions are united in determined hoſtility to the enemy, not only they, but all the world have known, that England, thus united, may bid defiance to the world?—That it is in vain for an enemy to hope that when there is a union like this, proclaimed and declared by thoſe who could have no intereſt in declaring it, if any ſuch perſons exiſt, as this paper ſuppoſes, in this country, France muſt conſider invaſion as a forlorne hope: They are only to expect ſupport from perſons who poſſeſs no power, wealth, or conſequence, and to be oppoſed by the men of property of all ranks and deſcriptions throughout the Kingdom.

Gentlemen, I muſt entreat you not to miſunderſtand the way in which I point this. I do not mean that the obſervations made upon this paper, ſhewing the folly of it, the contradictions it contains, the abſurdity of its contents, are alone an anſwer to the charge. If it was, by other circumſtances, deciſively proved to be deſtined to meet the eye of the Executive Directory of France, and actually to be delivered to them, whatever may be the contents or effect of it; whether it would eſſentially tend to encourage or to diſcourage the invaſion;—Yet, if it was intended to be ſhewn to the Executive Directory of France, in order for them to exerciſe their judgment upon it, although they would have drawn the concluſions I have pointed out, I do not mean to argue that it would not be treaſon to carry it to them for this purpoſe.—My argument is, that there being no poſitive evidence to prove that this paper was deſtined for the eye of the Directory, no poſitive evidence that there was any previous plot, any conſpiracy, any body of men aſſembled for the purpoſe of communicating with, or ſending intelligence to France; there being no evidence to prove that even an ordinary degree of caution was uſed with reſpect to the paper, but every attendant circumſtance ſhewing the negative:—under ſuch circumſtances, the contents of the paper ought to have great weight in diſproving the charge of its alledged deſtination. All the circumſtances taken together, the contents of the paper, the place where it was found, the circumſtances attending

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the care of it, the abſence of poſitive proof on the part of the proſecution, all ſpeak together, that it muſt have been an idle paper, not of the nature, nor intended for the purpoſes charged in this indictment. If this ſhould be your belief there is an end of the indictment, for that is the point upon which the whole reſts.

I have aſſumed, in what I have been now arguing, that the paper was actually found in the pocket of the great coat, and that that great coat did actually belong to Mr. O'Coigly. If I had been in any reſpect diſpoſed to put this caſe upon little circumſtances, I might have gone into ſome obſervations reſpecting the teſtimony that has been given upon that ſubject—I might have obſerved upon the manner in which the perſons conducted themſelves with reſpect to the finding this paper, and the inconſiſtency in the teſtimony given on the part of the Crown. Two witneſſes from Bow-ſtreet have ſpoken of the finding it, and the place where they firſt took it out of the pocket, which was expreſsly ſtated by one of them, if not by both, not to be in the preſence of the priſoner; but that it was actually, for the firſt time, taken out of the great coat pocket in a room wherein the only perſons preſent were the two Bow-ſtreet officers and Mr. Twopeny, the attorney. Mr. Twopeny, the attorney, was called, and ſwore the direct contrary. He has poſitively ſworn, that though he came after the priſoners were arreſted, yet he came into the room where the great coat was, and he actually ſaw the pocket-book taken out of the great coat pocket in the preſence of the priſoners. Upon this ſubject, therefore, there certainly is a direct contradiction between Twopeny and the other witneſſes examined on the part of the Crown.——

Mr. Plumer was informed by the Court that he had miſtaken the evidence—that their teſtimony was uniform upon that circumſtance.

Mr. Plumer. I am thankful for the correction—I was not going to lay any kind of ſtreſs upon it, but only made the obſervation with a view to a principle, the truth of which is equally proved by another circumſtance which occurred in the courſe of the evidence on another ſubject. You recollect, Gentlemen, that a woman was examined for the purpoſe of

identifying one of the gentlemen at the bar; ſhe gave her evidence poſitively and diſtinctly at firſt; on being aſked which was the perſon that came to Canterbury on Sunday night, ſhe pointed out Mr. O'Connor poſitively to be the perſon. Afterwards ſhe was deſired to come up nearer to him, and again pointed him out, and ſwore poſitively to the fact: but Mr. Garrow having mentioned the name of the perſon ſo pointed out to be Mr. O'Connor, and the witneſs by that means finding that ſhe muſt have made a miſtake, inſtantly corrected her evidence, and fixed upon the Gentleman ſtanding next to him; and it is notorious and admitted, that Mr. Binns, and not Mr. O'Connor, was the perſon. The evidence of this witneſs is, I know, ſtruck out, and will not be ſummed up to you; but I make the obſervation for the purpoſe of ſhewing with what caution you ought to receive little circumſtances, that are collected together for the purpoſe of raiſing a preſumption, and an inference of guilt.

Another circumſtance has been given upon evidence, which, I preſume, is meant to be relied upon, and which likewiſe ſhews how extremely cautious you ought to be in relying upon evidence, ſuch as has been brought to day; collecting together little circumſtances of probability and preſumption, to preſs againſt men to the extent of their lives. Papers have been ſpoken to generally by perſons declaring their belief of their being the hand-writing of the priſoner—a teſtimony often given very raſhly, even if not from perſons in the ſuſpicious ſituation, to ſay no worſe of him, of Mr. Dutton, but who often draw very raſh concluſions upon the ſubject of hand-writing. Papers are by that means proved, and men made reſponſible, to the extent of their lives, by a ſingle witneſs coming and ſaying, he verily believes the paper to be the hand-writing of the perſon under accuſation.

A paper has been produced, ſuppoſed to be a letter of Mr. O'Connor's. Mark, Gentlemen, the danger of relying upon circumſtances, proved by witneſſes very frequently, who certainly do not intend to miſrepreſent the truth, who come bona fide to declare what they believe to be true, but who yet give teſtimony, too raſhly and peremptorily, upon a ſubject affecting

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a man's life. Such was the caſe with Mr. Lane, upon whom I do not mean to caſt any imputation; Mr. Lane undoubtedly had good opportunities of being converſant with the hand-writing of Mr. O'Connor; he came here and gave evidence reſpecting it, and I do not ſuſpect he intentionally meant to ſay any thing that was not true. All that I mean to ſtate is the extreme danger, when men are upon trial for their lives, of relying upon ſuch ſort of teſtimony, even when given by men who are the moſt fairly diſpoſed. Here is a letter read againſt Mr. O'Connor as his letter; it is proved to be ſo by Mr. Lane. Now, Gentlemen, ſuppoſe that this letter had been a letter of more moment than it is.—It is urged as one circumſtance againſt Mr. O'Connor, connecting him with Mr. O'Coigly.—Suppoſe it had been a paper of ſtill more importance, the learned Judge, in ſumming up that evidence to you, would have ſtated this of courſe, as teſtimony given againſt Mr. O'Connor, poſſitively proving it to be his hand-writing; and if Mr. O'Connor could not have proved the reverſe (which it is extremely difficult to do, unleſs he happens to know whoſe letter it is; in the caſe of a letter only ſigned by initials, and thoſe not eaſily made out,) what muſt have been the conſequence. It would have been ſaid, Mr. O'Connor only ſays it is not his letter, but he does not prove that it is not his; and it is proved on the part of the proſecution, that it is his—you muſt in that caſe have taken it into your conſideration as uncontradicted evidence againſt him.—Suppoſe upon this paper, thus proved, you had brought in your verdict of guilty, and had ſentenced Mr. O'Connor to death.

Gentlemen, you would have been very ſoon in the diſtreſſing ſituation ſtated by Lord Hale. Every one of you probably would have had reaſon to recollect with regret, to the lateſt moment of your lives, the unfortunate verdict you had given.—This letter was actually written by a witneſs, whom I will call, and who will prove to you, that it was written without the leaſt knowledge, without the leaſt privity, of Mr. O'Connor. What would you have felt if you had convicted Mr. O'Connor upon ſuch a paper, in conſequence of the hand-writing being proved, by even a reſpectable witneſs,

neſs, who ſpoke to the beſt of his knowledge and belief.—If this had been preſſed to connect Mr. O'Connor with the paper in queſtion, which it is in part, and this had more pointedly connected him with it, what would you and the world have ſaid, if after you had pronounced your verdict, and Mr. O'Connor had in conſequence of that verdict ſuffered death, the real ſtate of the fact which had not been known at the time, had been afterwards accidentally diſcovered, as in the caſe ſtated by Lord Hale, where, after perſons had been executed, in three inſtances irrefragable evidence appeared, negativing the ground upon which they had been convicted. If it had been aftewards diſcovered that this gentleman had not been in the kingdom at the time, but was in Ireland, and therefore that it could not poſſibly have been written by him, and this circumſtance had formed an ingredient in your mind to have convicted Mr. O'Connor, and ſentenced him to death, what would you all have ſaid? what would the world have ſaid? —The ſame obſervations apply to the teſtimony given reſpecting identity of perſon, if it had not been detected, in the inſtance of the woman, who on her poſitive oath pointed out Mr. O'Connor to be the man who came to Canterbury on the Sunday night, which he unqueſtonably was not.

You ſee the extreme danger of relying upon this ſort of evidence, and ſtill more on preſumptions built upon it, and little circumſtances tending to implicate a man in thoſe foul crimes, the puniſhment of which is ſo dreadful and ſevere.

But, Gentlemen, I do not mean to trouble you with a further detail of all the minute circumſtances that belong to this part of the caſe. I have probably omitted many; but as far as reſpects this head of the ſubject, I ſhall entirely leave it with you; any defects of mine, and very many I am conſcious of, will be well ſupplied by the gentlemen who follow me, and ſtill more by the learned Judges, who are ultimately to ſum up the caſe.

I ſhall ſubmit to you, upon this firſt point, the proof of which muſt be made the foundation of a verdict of guilty againſt all, or any of the priſoners, that there is not a ſufficient ground eſtabliſhed by the evidence, to induce a Jury to pronounce, that

that this paper, in whoſever poſſeſſion it was found, and by whomſoever it was intended to be carried out of the kingdom, was certainly ſent for the purpoſe, and intended to be delivered to the Executive Directory of France. There is no clear and poſitive evidence affirmatively to prove that firſt propoſition; and I rely upon the contents of the paper, and the circumſtances under which it was found, as affording reaſonable and fair evidence to the contrary. Under theſe circumſtances, I ſubmit that it cannot but be admitted to be matter of doubt at leaſt, whether it was ſo intended or not; and ſuppoſing it to be matter of doubt, it will not be denied that the inevitable conſequence is, that it muſt produce a verdict of acquittal; becauſe you are not, in a doubtful caſe, to hazard a contrary verdict, which is to be attended with conſequences ſo highly penal.

Gentlemen, it is however neceſſary, on behalf of one of the gentlemen for whom I appear, Mr. O'Connor, that I ſhould detain you a very ſhort time longer, to point out the circumſtances which relate perſonally to him, for the purpoſe of ſhewing that it is not poſſible he could have the deſign imputed to him, that he could have intended to be the bearer of this paper, to carry it to the Executive Directory of France, for the purpoſe of inviting the invaſion of England. To prove that he did ſo, there is not, on the part of the Crown, one ſingle tittle of direct and poſitive evidence; I ſay, Gentlemen, there is not, becauſe I do not conſider the general evidence on the other part of the caſe, proving in him a purpoſe to go abroad, a purpoſe to go abroad in the company of others, a purpoſe to go ſecretly out of the kingdom, which I have already explained to have been done, with a view of avoiding the danger that preſſed upon him; this I do not conſider as direct, certain evidence, pointedly applying to this part of the caſe, or as connecting him with the individual paper in queſtion. I am ſure you will feel that a hundred caſes may be ſtated, in which perſons may form a plan to go out of the kingdom together, and yet it by no means follows that they are all going, after they have left the kingdom, to the ſame place, or for the ſame purpoſe; a variety of different circumſtances induce men to a change of country—dan-

ger, diſlike to the place they are in, buſineſs, amuſement, attractions in the place to which they intend going; ſeveral perſons may agree in wiſhing to leave the country in which they are, without looking forward to the ſame object, or intending ultimately to confine themſelves to the ſame ſpot. One man is going to Holland, another to France, a third to Switzerland, a fourth to Italy, and ſo on; all the party ſplitting and dividing the inſtant they have got abroad, yet all wiſhing to get out of the kingdom.

Again, there may be four or more perſons united in a plan of going out of the kingdom, each having his own motive for leaving it; one, for inſtance, may be going for his health, another, for fear of his creditors; a third, becauſe he apprehends that a charge may be made againſt him for any crime committed; a fourth, merely for purpoſes of amuſement; a fifth for purpoſes of public or private buſineſs. They would all be united in an intention of going into parts beyond ſeas, and might all, for that purpoſe, take a coach or veſſel together, and go abroad together. What then? Is it to be inferred, becauſe they leave the kingdom together, that they have all the ſame motive, the ſame place of deſtination, the ſame ultimate object. No, certainly, it concludes nothing with reſpect to the motive of each individual, proving only many to be going away in one company, and proving the intention of any individual of the company to be of a treaſonable or other criminal nature, or that he had committed any crime for which he was flying from the country, burglary, murder, or the like; that he had been engaged in a duel, or done any thing elſe, the conſequences of which were highly penal; proving, I ſay, any of theſe to be his reaſon for going, does not prove that it is mine, who go with him, or that of any other perſon who happens to be of the company. Where, therefore, evidence is given of a perſonal and individual motive, it would be the raſheſt concluſion in the world to preſs that againſt any more than the perſon whoſe motive it is, merely becauſe they have agreed to go abroad with him, and are found in company with him.

To a certain degree they may be ſaid to be united in deſign, viz. in one common wiſh to go out of the kingdom, and they

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may be further united in the ſame wſh that their departure ſhould be private, each for a different reaſon; but what is the motive of one is not the motive of another; what is the motive of Mr. O'Connor, for inſtance, is not the motive of Leary his ſervant; the maſter goes for his own buſineſs, the ſervant to follow his maſter. One gentleman goes out of the country becauſe he has taken part in the politics of another country, that makes it unſafe for him to remain in it; another may be influenced by any other of the various motives I have ſuggeſted. Apply this reaſoning to the preſent caſe—Four natives of Ireland are found going together out of this kingdom privately, and ſo far they are proved to be connected together; but it does by no means fairly and reaſonably lead to the concluſion, that the motive of one, if proved to be improper, was the motive of the others. I do not mean to ſtate that there may not be circumſtances to connect them as to purpoſe and motive, but I truſt I have ſhewn, that merely connecting them in the purpoſe of the voyage, or journey, is perfectly inconcluſive as to the charge of a traitorous conſpiracy. If there were ſpecific proof that one of them was going to France for the purpoſe charged, yet his individual intent is not, ſtanding alone, to be conſidered as proper evidence of the motive, object, or deſtination of the reſt; ſtill leſs is it capable of being ſo preſſed in the caſe of a treaſonable act, ſuch as the preſent is ſuppoſed to have been, which is more naturally the act of one than of many, and where the evidence properly fixes it upon one only, to the excluſion of the reſt.

A paper is found, under circumſtances that properly confine the reſponſibility for it ſolely and perſonally to an individual: I take it, if there is any propoſition eſtabliſhed in the uſage of common life, it is that every man is alone reſponſible for the contents of his own pockets. If it were not ſo, conſider what would be the conſequence? If any one could be convicted of a crime, by being made anſwerable for the contents of another man's pockets, no man could ſafely go in company any where with another, and certainly not privately, without ſaying, Let me firſt examine your pockets; you muſt let me ſee the contents of your coat, waiſtcoat, and breeches pockets; nay,

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to be perfectly ſafe, he muſt go farther, and ſay, Strip to your ſhirt; for if you have any thing about you any where, I do not know but I may be made reſponſible for it. He muſt ſee all the luggage of his fellow-traveller, and ranſack every thing belonging to him, before he could ſafely go out of the kingdom in his company;—for Mr. O'Connor was hanged at Maidſtone, becauſe he went in company with a man whoſe pockets he had not examined. If ſuch a doctrine were to prevail, any man who is in future going out of the kingdom with another, or travelling with him within the kingdom, muſt uſe the precaution I have ſtated, at the peril, if he does not, of being made reſponſible for the contents of the trunk or other package, the pockets and pocket-book of his companion. This can never be ſeriouſly ſtated. Where any article is found in the pocket of another, the proper inference is, if there be no evidence to carry it farther, that it is excluſive perſonal poſſeſſion in him alone. It attaches individually and perſonally on him, and it is in his ſole poſſeſſion; he alone is to be called upon to explain it, he alone is to be reſponſible for it, unleſs there be ſome other evidence to make any body elſe reſponſible. It throws upon thoſe who wiſh to extend the reſponſibility to others, the onus probandi; primâ facie, a paper ſo found excludes the idea of any participation and co-operation in any other perſon; I ſay, primâ facie, it is to be conſidered as not being in the poſſeſſion of any body elſe than the individual in whoſe pocket it was found, though certainly it may be made out otherwiſe by extrinſic circumſtances.

Let us ſee, then, what other evidence there is to rebut this preſumption, and to ſhew that Mr. O'Connor was any way connected with this paper. It might have been proved, that though the paper was found only in poſſeſſion of one, yet that the reſt, and in particular Mr. O'Connor, had actually ſeen the paper, that he had read it, that he had compoſed it, that it is in his hand-writing, that he had been in company when it was written, that it had been read over to him. Is there any evidence of that ſort? Has there been a ſingle witneſs called to ſuggeſt that Mr. O'Connor ever ſaw it in his life till it was produced in this Court? Is there any the leaſt evidence that he

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ever heard of it, that it was ever read to him, that it was ever any part of it communicated to him? Is there the ſmalleſt tittle of evidence, on the part of the proſecution, to this effect? Here is all the preſumption of the paper's belonging to another, and proof of its being in poſſeſſion of another, and not a tittle of poſitive evidence to prove that Mr. O'Connor ever ſaw it, heard of it, or had ever the contents of it communicated to him in his life. Are you to preſume this without, and againſt evidence? The graveſt and wiſeſt authorities have ſaid you ought to pauſe, in a caſe of life, even where there is ſome evidence, to be cautious how you adopt preſumptions againſt any man. How, then, can you venture to preſume, without any evidence, that Mr. O'Connor knew this paper was in the pocket of Mr. O'Coigly, and that he was intending to carry it to the Executive Directory of France? It is impoſſible for Mr. O'Connor to prove that he knew nothing of it. Though that be true, he cannot prove it, becauſe a negative does not admit of proof. If the charge were made againſt any one of you, who had unfortunately been in the company of theſe perſons, going abroad with them, it would have been impoſſible for you to give poſitive evidence to negative your connection with the paper. You could only have ſaid, I never ſaw the paper, never heard of it in my life, I knew nothing what this man had in his pocket-book or great-coat pocket: prove that I ever ſaw it, heard of it, or that the contents ever were communicated to me. If the proſecutor did not give ſuch proof, as he certainly has not in this caſe, you would ſurely think it unjuſt to be convicted upon preſumptions, without any proof of actual knowledge.

What other evidence has been adduced to prove Mr. O'Connor knew of this paper? Why, it is ſaid Mr. O'Connor was one of this company; that after he was apprehended, he diſavowed his knowledge of any of them; that he did not acknowledge the baggage, and that he ſaid what was not true with reſpect to the deſtination of his voyage. I have already ſtated what, I truſt, you will conſider as a fair and reaſonable ground, for an indulgent conſtruction of what a man unguardedly ſays in the moment of alarm, oppreſſed with the apprehenſion of being

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ſent to gaol, on ſo heavy a charge as the preſent; I truſt you will think it ought not to be preſſed further than to infer a conſciouſneſs in Mr. O'Connor that he was doing what he had no right to do, which muſt certainly be admitted to have been the fact. He had not a right to go out of the kingdom without a licence; that will account why this gentleman did not conduct himſelf with that candour and prudence which he ought to have uſed, and the frank diſcloſure of every thing that belonged to the affair. He knew he was attempting what was forbidden by law, and from what he had endured in Ireland, he dreaded the danger of another impriſonment. He was alarmed, and had no friend to adviſe or direct him; he knew that ſome of his companions were ſuſpected fugitives like himſelf; but to infer, becauſe he acted in the imprudent manner which has been ſhewn, in the diſavowal of thoſe companions, and the concealment of the deſtination of his voyage, that he was concerned in, or knew the contents of this paper, ſeems to me to be a moſt raſh and unjuſtifiable concluſion.

It is further ſtated that Mr. O'Connor did not acknowledge the baggage. Mr. Attorney General ſaid, What! not own baggage ſo valuable---property ſo conſiderable! What can that be owing to but guilt?

In the firſt place, what reaſon was there for Mr. O'Connor's not acknowledging this baggage, when in this baggage there is not a ſingle thing found to afford any proof againſt him. All theſe clothes, the money, and other articles of conſequence, that were found, why, it is aſked, ſhould not he own them? and you are deſired to draw an inference from that circumſtance, and impute guilt to him. But what is to be imputed or inferred from hence? If you mean that it is a circumſtance to ſhew his reluctance to be identified in perſon, that is negatived by the evidence, that the moment he came up to Bow-ſtreet, upon being aſked his name, he acknowledged it. With reſpect, too, to his denial of his baggage, I do not obſerve, in the examination of Mr. O'Connor, given in evidence, he does deny it. He ſays, the keys have been out of my poſſeſſion, things may have been put into it ſince it has been taken from me, and therefore I do not chooſe to be reſponſible for it; and,

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on the contrary, he diſtinctly claims the money, ſtates that it is his, and he alſo claims the property in the baggage. The fact therefore, of a ſuppoſed diſclaimer, on his part, of the baggage, totally fails, and the inference, of courſe, with it.

The next circumſtance relied upon is a letter of Mr. O'Connor's, written to my Lord Edward Fitzgerald, which was found in Leinſter-houſe, in the apartments of Lord Edward Fitzgerald. You have heard it read; what does it prove? Why, Mr. Attorney General ſays, that in this letter he indicates, with reſpect to himſelf, an intention to go to Williams, which Williams is, by the cypher, he ſays, made out to be France; and he likewiſe ſpeaks of getting Maxwell off; he talks of Nicholſon and her ſet, of the black terrier, and ſo on; which are evidently, ſays the Attorney General, myſteries, not meaning what they appear to mean, but having ſome other meaning. What then? why, ſays he, it is incumbent upon Mr. O'Connor to explain them. Well, and if he does not, what then? Why then it remains a myſtery, and becauſe it is a myſtery it muſt be treaſon. If it is not explained it is myſtery, and all that is a myſtery the proſecutor has a right to ſay is neceſſarily treaſon. Why ſo, Gentlemen? Are you to follow theſe myſterious interpretations, and to take upon yourſelves to hazard a conviction, when you are left in a ſtate of myſtery and doubt? Are you to take for granted, that Nicholſon and her ſet muſt mean ſome other perſon, and then at random to interpret whom in particular the expreſſion does mean? It does not appear who Maxwell is, therefore you are deſired to conclude it muſt mean O'Coigly. Is there any evidence to prove that he ever went by that name, or any circumſtance to connect him with it? Mr. Attorney General ſays, it is incumbent upon Mr. O'Connor to explain this. Give me leave, in the firſt place, to requeſt the benefit of the obſervations made in the beginning of my addreſs, that I am not on the part of a priſoner, charged with ſo heavy a crime, bound to explain at all. I have a right to maintain a ſullen ſilence, to ſay for him, I am not guilty—it remains for you, the proſecutor, to prove me ſo. If I do not explain any letter or paper, it muſt be left to ſpeak for itſelf. If you can, either by internal evidence of

its contents, or from other circumſtances, explain it, and aſcertain with certainty that the meaning is againſt me, you are entitled to the effect of it; but mere non-explanation, on the part of the accuſed, is not a ground which can aid or fix the evidence given on the part of the proſecution. The priſoner's explanation might contradict it, but his ſilence cannot help it. Let me aſk, too, whether it is reaſonable, if Mr. O'Connor gives no explanation of this letter to Lord Edward Fitzgerald, to conclude to the extent againſt him, to which it has been preſſed by Mr. Attorney General.

Does this letter conſtitute any part of the charge againſt Mr. O'Connor? Had he the leaſt notice till yeſterday that it was to be produced againſt him? Had he before the ſmalleſt idea of ſuch a letter? and yet he is expected inſtantly to be prepared, not only with an explanation, but with proof, in anſwer to it, for his own perſonal explanation is nothing. Is it reaſonable, becauſe he is not able to explain the contents of a letter, which does not conſtitute any part of the known charge againſt him—becauſe he is not able, when ſurprized by the ſudden production of a letter written to a gentleman in another kingdom, and plainly relating to perſons and things in another kingdom—is it reaſonable to adopt the proſecutor's arbitrary, unproved interpretation, and upon the ſtrength of it to convict Mr. O'Connor? I inſiſt it is not reaſonable. If the proſecutor had meant to preſs for a conviction upon this letter, it ſhould, if poſſible, have been introduced into the charge, or ſome notice ſhould have been given of it, and the explanation of it demanded. The proſecutors have had it in their poſſeſſion from the time it was firſt found in Leinſter houſe; they have had opportunities, we have not had, to explain and to prove all the circumſtances belonging to it. They long knew of this letter, I did not. Am I then to have preſſed againſt me, that I give no evidence to explain myſtery, when they give no evidence to prove that that myſtery has the meaning which they put upon it? I ſay, that if the enquiry concerning this letter ends in myſtery, it ends in doubt; and in a doubtful caſe you certainly are not to adopt the meaning

meaning which makes againſt the accuſed, rather than that which makes for him.

But with reſpect to this letter, how does it in any part connect Mr. O'Connor with the paper found in the great-coat pocket? In that letter Mr. O'Connor is writing confidentially to Lord Edward Fitzgerald. Is there one word of intimation that he is propoſing, or concerned in any plot here, to invite an invaſion of England? that he is employing any perſon for ſuch a purpoſe, that he is himſelf to be the bearer of any intelligence for ſuch a purpoſe, or that he is to accompany any perſon who is going abroad for that purpoſe? Can any ſuch meaning be collected from this letter? which, by the by, is a letter without any date, and when written; and what it relates to is altogether left unexplained by the proſecutor. From the way in which this Maxwell is mentioned, it is plain he was not a perſon to accompany Mr. O'Connor, for the letter ſpeaks of getting him off. I ſay therefore, that throughout this letter, there is nothing in any part of it that neceſſarily, or by fair inference, connects Mr. O'Connor with the purpoſe, or manifeſts the intent imputed, viz. that he was concerned in a plot to procure an invaſion of England. But there is a fair inference to be drawn to the contrary, from the ſilence of the letter on that ſubject, though written in confidence, in the moſt undiſguiſed manner, to his friend Lord Edward Fitzgerald. You obſerve that it relates altogether to meaſures in Ireland, and reſpects another kingdom, and not this. All that he ſays in it, reſpecting England, is nothing more than the common obſervation of a gentleman reſiding at the time in this country, and remarking upon the ſtate of it in general terms, as any individual, caſually reſident here, might have done to a friend in another kingdom. I contend, therefore, that as far as we can get at the contents and meaning of this letter, there is nothing to prove Mr. O'Connor concerned in any plot to invade England, and that it throughout ſhews his mind was wholly intent upon the affairs of Ireland. It can never, therefore, fairly, whatever ground it may be ſaid to afford for any other imputation upon Mr. O'Connor, which is not the ſubject to-day, it can never be fairly applied to the

queſtion now under conſideration, viz. whether he was concerned in carrying this paper to France, to invite an invaſion of England; for throughout that letter there is not any one paſſage that intimates, or is expreſſive of, any ſuch intent.

One paſſage in it has been much relied upon, wherein he ſays he is going to *Williams* (which the proſecutor ſays is *France*), and that he means to be active there. Now I will aſſume that Williams means France; what then? I mean to be active there; active, how? What do you mean to do? Active in public or in private buſineſs? That is not ſaid. Oh, we muſt therefore ſuppoſe it to be public buſineſs, and that public buſineſs you muſt infer to be treaſonable buſineſs, and that treaſon you muſt conclude to be treaſon directed againſt England. Why? becauſe whenever a man ſtates that he is going to France, and intends to be active there, you muſt neceſſarily conclude he means to be active in a treaſonable correſpondence againſt England. Is not this ſtraining the meaning of a ſentence, which only imports ſome intended activity, without fixing what? It might relate to buſineſs wholly private, to the private concerns of Lord Edward Fitzgerald, who had married a French lady, and might have a hundred concerns of a private nature, which Mr. O'Connor might have undertaken to tranſact for him there. It might relate to activity of any kind whatever; and unleſs it is proved to be activity of the nature ſtated in the charge, all that you can make of it is, that it is left in doubt what it alludes to, and therefore you can form no certain concluſion about it. Obſerve, if a contrary reaſoning were to prevail, what would be the effect with reſpect to the act, which prohibits any perſon going into France. If any man goes into France ſecretly, he is liable, under that act, to ſuffer ſix months impriſonment, on being convicted of that miſdemeanor; but if it is proved, beſides going to France, he meant to be active there, then it is treaſon; ſo that act could only apply to a perſon who meant to do nothing when he got to France; and as to any man who meant to be active there, he muſt intend treaſon. Now no man would go out privately to France without ſome reaſon for it, and therefore every ſecret departure which, under the act, amounts only to a miſdemeanor, muſt,

muſt, with the addition of a mere intimation that he means to be active, in ſome thing or other, be converted into High Treaſon. I ſubmit that no ſuch inference can fairly ariſe againſt Mr. O'Connor from that circumſtance.

Some obſervations have been made reſpecting his dreſs, his money, his baggage, and all the more minute articles of property, that are now ſpread out before you, with a view, I ſuppoſe, to induce ſtronger ſuſpicions in your minds, of the guilt of Mr. O'Connor; but how can ſuch in any reſpect bear upon this part of the caſe?—That he was going abroad, clearly appears from his examination, and many other circumſtances, and more than that, all this apparatus does not ſeem to me to prove. With reſpect to his taking with him abroad the money that is proved, why any gentleman going to ſtay for any time, would of courſe take money for that purpoſe. It cannot be ſuppoſed to be money for any other purpoſe. It is not a ſum that could be deſigned for procuring active aſſiſtance from abroad; nor is it poſsible to ſuppoſe, that Mr. O'Connor, a fugitive from his own country, and who had transferred away all his property there, was in a ſituation to go with pecuniary means of bribing, or corrupting, France, to take part in the invaſion of England.—The money was deſtined for his own purpoſes, while he continued abroad, during the diſtractions of his country.—If this gentleman had been going in the pay of France, he did not want any money. I take for granted they would have paid ſuch a convert to treaſon pretty handſomely. It is plain he depended upon himſelf, and therefore he took this money for his ſupport.

Gentlemen, excepting this, the only extrinſic circumſtances urged againſt Mr. O'Connor are, that he is ſeen in company with Mr. O'Coigly, before they ſet off, dines with him at Mr. Bell's, calls him by the name of Jones; and afterwards ſays that his name is O'Coigly; upon that, I ſhall detain you but a few minutes, becauſe it ſeems to me, that theſe circumſtances are already comprehended in the general obſervations I have made. They merely tend to ſhew, that he was induced to act towards Mr. O'Coigly, as Mr. Bell has ſtated—that Mr. O'Coigly (who certainly was in Ireland according to

the Letter the profecutor has produced, the 14th of January, 1798, and does not appear, by any evidence, to have arrived here, till about ten days before he ſet off) had recently come from Ireland, and appeared, as Mr. Bell ſtated, to be a new acquaintance of Mr. O'Connor's; both intending to go abroad, they agree to go together, and to take the means of concealing this deſign; that is all that is proved by it; and that is perfectly conſiſtent with the caſe I have already ſtated.

Gentlemen, I ſhall only juſt obſerve here, with reſpect to Mr. O'Connor, that there is not the leaſt proof he had any previous acquaintance with one of the perſons, who is ſuppoſed to be a co-Conſpirator with him in this plot, I mean the priſoner of the name of Allen; you obſerve there is no proof of any previous knowledge; and the fact is, that he never ſaw Allen in his life, prior to their meeting in the Whitſtable Hoy; and yet it is taken for granted, that he is willing to entruſt his life in the hands of this ſtranger, of inferior ſituation of life, and to be a conſpirator with him, and his own ſervant—He who had ſuffered ſo much from ſuſpicions againſt him in another Country, is ſuppoſed to be ſo indifferent about impriſonment, and ſo careleſs of life, as to truſt himſelf in the hands of this miſcellaneous party, upon an embaſſy like this.

Gentlemen, I will not detain you longer on this head.—I truſt I have ſhewn you, that there are no extrinſic circumſtances adduced in proof, on the part of the profecutor, to bring this paper home to Mr. O'Connor, or to render him reſponſible for it. I have only now to obſerve, what evidence is afforded by the contents of the paper itſelf, as applied to this ſubject, and in that I ſhall ſhew not only that they produce no evidence againſt Mr. O'Connor, but the moſt deciſive negative of any connexion with it, on the part of Mr. O'Connor. Gentlemen upon this ſubject, I hope I ſhall only detain you a very few moments longer—I am extremely ſorry to have treſpaſſed upon your time, and that of their Lordſhips ſo long. I only requeſt your indulgence a very few minutes, while I point out, as material for your conſideration, a paſſage, I have before read from this paper, tending to reflect upon

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the confidential friends of this Mr. O'Connor, who is charged to be concerned in it.—Negatively I say, that on the part of the profecution, they have not proved againſt Mr. O'Connor, that he was connected with the ſuppoſed author of the paper, or with any ſociety from whence it is ſuppoſed to have iſſued. —As far as any evidence goes, it is negatived by his not belonging to any ſociety at all.

Now, Gentlemen, if I prove to you poſitively, on the part of Mr. O'Connor, that he was connected moſt cloſely and intimately with all the perſons, who are the ſubject of attack in this paper; and that there is all the evidence, the nature of the ſubject can admit, negatively, that he is not connected with the party who wrote it; it ſeems to me impoſſible that the contents of any paper can more clearly evince in both ways, for the accuſed, and againſt the accuſation.—When men read any paper, they generally draw their inferences, with reſpect to the author, from the ſtile of the imputed author, if they are converſant with it;—or from his habits and connections, in life, they judge how far it is probable he can be connected with any particular compoſition.—Judging by this criterion, could Mr. O'Connor have been the author, or in any reſpect privy to a paper of this ſort now before you?

Under the firſt head, I ſhall content myſelf with referring to the evidence, and obſervations before made, completely negativing all connection with the ſuppoſed writers of this paper. Under the ſecond, I ſhall preſently call many of thoſe Gentlemen who are the principal objects of attack in this Paper, the gentlemen connected with oppoſition, whom it diſtinguiſhes as men who have deſerted the cauſe of liberty, and expoſes as proper objects of the vengeance, and reſentment of invading France. Gentlemen, I requeſt of you to conſider what was Mr. O'Connor's ſituation, and reflect upon this, as if it were a buſineſs of common life, and try whether there is not the moſt convincing proof of my argument. If you will favour me with your attention for a very few moments, I think I ſhall be able to ſatisfy every one of you, by the moſt deciſive criterions, fortunately for the vindication of truth and innocence, ever occurring in a Court of Juſtice; from the *evidentia*

rei, the paper itſelf, the moſt deciſive proof to negative Mr. O'Connor's being the author of it, connected with or approving of it, upon every poſſible hypotheſis that can be adopted. Suppoſe him only to poſſeſs the feelings of a man, to have a heart acceſsible to the common motives which govern human nature.—Weigh every motive that can operate upon the human mind.—Suppoſe him even to have been governed by intereſted motives; put it, that he is the baſeſt creature that ever exiſted, that he is looking only to his own good, advancement, or emolument, in any way in which the caſe can be viewed. I ſay this paper preſents the moſt deciſive negative to the ſuppoſition, that any man in the circumſtances of Mr. O'Connor, and acting upon any motive that can be ſuggeſted, could poſſibly have been the author of it, or in any way concerned in it.

Gentlemen, Mr. O'Connor had ſmarted ſorely under the rod of adverſity—unqueſtionably on account of his principles, and, no doubt, purely and honeſtly acting upon them. Whether thoſe principles were, or were not, right, is not the queſtion now, but in conſequence of them he had forfeited and given up the deareſt connections he had in Ireland; he had reſigned his ſeat as a Member of Parliament, becauſe his political principles were not approved of by his noble relation who brought him into Parliament, Lord Longueville. He had acted, therefore, at leaſt a diſintereſted, an open, and manly part, in the conduct he had obſerved in his own counntry. He had ſuffered a cloſe and dangerous confinement in a gaol for ſix months. When liberated what had he left—property.—They ſay he had tranſferred it all.—His natural relations and connections.—From them he was ſeparated;—from his native kingdom he was compelled to become a fugitive. What then, I aſk, had he left? dear, intimate, and affectionate friends.—They were all that his adverſe fortune had left him.

Gentlemen, they have remained his friends throughout all the period of his adverſity. They were not velvet friends, with whom miſery parts, the flux of company—but ſuch as approving, loving, and reſpecting him, had clung

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to him throughout all his hard ſufferings. They loved him for his principles and virtues; they admired him for his talents and abilities, and firmly adhered to him throughout all the adverſe events of his life.

Good God! Gentlemen, can we ſuppoſe a man to be ſo conſtituted, to have ſo little the heart and feelings of a man, as to deſert or betray his friends at a time when all moſt ſtrongly feel their attachment, for it is in the hour of adverſity when the value of friends is moſt warmly impreſſed on the mind. In proſperity their kind attentions do not ſo forcibly affect the heart. But when we are expoſed to the ſtorms of adverſity—when the world frowns upon us, if a few faithful friends remain ſteady around us, is there a man ſo inſenſible as not to feel the attachment of ſuch friends, as not to love them, and cling to them? Gratitude, ſenſibility, tenderneſs, attachment, every motive muſt have rivetted ſuch friends to the feeling and generous mind of Mr. O'Connor. He comes over to this country, lives with them in the utmoſt intimacy and cloſeſt connection; they are his boſom friends, the beloved friends of his life; he has no other. The proſecutors have not proved that he had, and the direct negative is in proof. What now are you deſired to conclude of Mr. O'Connor, a man of talents, a man of a diſintereſted mind, of a manly ſpirit, of an open diſpoſition, who had always acted with the moſt perfect frankneſs through the whole of his public and private conduct, who had never, in any inſtance, diſguiſed the ſentiments of his heart; that he ſhould have lived with theſe gentlemen, held out the hand of friendſhip to them, and received all their obligations and their kindneſs, while, at the ſame moment he was plotting a baſe aſſaſſination againſt them, marking them out as objects of deſtruction and vengeance, writing their death warrant, *notat & deſignatad cædem ununquemque*; crying out to a ferocious and barbarous enemy, deſtroy all my friends and connections, the only ones I have left; theſe are all my boſom friends, and adherents whom I love; they have ſerved me and loved me dearly; they have faithfully ſtood by me in all the adverſities of life, therefore deſtroy them

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to a man, ſave not one. And why is all this, Gentlemen? If he were carrying intelligence to the enemy, and inviting them to invade the country, could he not be ſilent with reſpect to thoſe friends? why need he ſo laborioufly endeavour to ſecure their deſtruction? for you muſt ſee, gentlemen, that the principal object of this paper, is to mark out for deſtruction the boſom friends of Mr. O'Connor.

What then can you ſuppoſe Mr. O'Connor to be made of? Can you believe, that with reſpect to thoſe who proſecuted, I won't ſay perſecuted him, (though in his judgment he might think ſo of all who had been the authors of his ſufferings), Can you ſuppoſe he is made of ſuch charity, that he is of ſo forgiving and chriſtian a ſpirit, that of his enemies (as we may call them) he ſays not a word; he does not point them out as objects of reſentment? But, at the ſame time, of ſuch a fiend-like diſpoſition, that he is to implore the deſtruction of all thoſe who have ſtood by him, and who have been kind and affectionate to him? Now, from what motive is he ſuppoſed to do this? I have ſhewn you that this addreſs, informing the French that all the principal people of England were againſt them, was certainly no encouragment, nor could any man of ſenſe urge it as a reaſon for them to invade England. What then could induce Mr. O'Connor to go out of his way to point out his friends as objects of reſentment, as political impoſtors, merely to weaken the argument he is ſuppoſed to be enforcing. It muſt be miſchief for miſchief's ſake, perfidy for perfidy's ſake, pure unadultered ingratitude, baſeneſs and vileneſs of heart. Gentlemen, I entreat you to conſider the utter improbability of this charge. I ſubmit to your better judgments whether the obſervations I have made are not fairly deducible from the contents of the paper in queſtion, and whether they do not afford a fair reaſonable internal evidence, ſtronger than ten thouſand witneſſes, to negative any poſſible connection of Mr. O'Connor with it.

Gentlemen, permit me to detain you only for a ſingle moment longer, with an additional argument reſulting from the ſame ſource. This Mr. O'Connor whom you are deſired

fired to believe to be a baſe hearted man, one who has no regard for his friends. The characteriſtic is, by all that know him, that his mind poſſeſſes the trueſt ardor of friendſhip; that there never was a man more paſſionately attached or devoted to every friend he had. He was on that account choſen as the object of friendſhip, by men who could have no poſſible motive for ſelecting him as ſuch, but their knowledge of his worth—and they are not men to be eaſily duped. Their enemies will admit that they have too much ſagacity and penetration to be deceived in the character of a man with whom they were in the daily habit of aſſociating. If Mr. O'Connor had really entertained the ſentiments contained in this paper, it could not have remained unknown to thoſe, who had the conſtant opportunity of the moſt confidential intercourſe with him. And by what poſſible motive could theſe gentlemen be influenced in their friendſhip for Mr. O'Connor, but a conviction of his deſerts? They were incurring a degree of odium in attaching themſelves to a perſon who had long been the object of ſuſpicion and proſecution; yet did they ſtill adhere to him, and afford the ſtrongeſt poſitive evidence; that they had never ſeen any thing throughout Mr. O'Connor's converſation, or conduct, that indicated the leaſt deviation from the character of a true and faithful friend, poſſeſſing on all ſubjects, public and private, ſentiments congenial with their own.

But, Gentlemen, ſuppoſe for a moment, that Mr. O'Connor has no regard for his friends, that, on the contrary, he is made of ſuch ſort of ſtuff, that the more friendly any man is to him, the more is ſuch perſon the object of his vengeance and reſentment; yet I preſume it will hardly be ſuppoſed that any man breathing is not a friend to himſelf, and on this ſuppoſition ſee whether the charge is not compleatly negatived.—If Mr. O'Connor was his own friend, I aſk whether it is poſſible he could intend to caſt off all that remained to him dear in life, in either country, only to effectuate his own diſgrace and ruin? A man may, by ſome fanciful notions of public principles, be induced to betray his country, (though he can never be juſtified in ſo doing) but what

what can induce him to betray his private friendſhips.—Such conduct would make him an object of deteſtation in every place throughout the civilized world.—By what ſuppoſable motives could he be influenced to ſuch treachery? Was it to gain in a foreign country friendſhip, emolument, or any of the objects that ambition might ſuggeſt to the mind? Then at leaſt you would ſuppoſe the paper adapted to attain thoſe purpoſes; but if you find that it is directly the reverſe—that it is calculated to overturn and blaſt every ſuch hope, ſurely this will furniſh an additional argument againſt the privity of Mr. O'Connor. Is there any part of the paper calculated to conciliate any favour or attention from France towards Mr. O'Connor?—Give me leave to obſerve in the firſt place, it profeſſes to be committed to the care of only one individual. It ſays, 'the citizen who now preſents this to 'you.'—Does not that import, that it is to be conveyed by one, and one only? That one alſo is ſtated to have been the bearer of ſomething before. Can this be fairly applied to more than the individual in whoſe pocket it was found, if it preſſes againſt any body at all? Surely if Mr. O'Connor had been baſe enough to become a participator in a buſineſs of this kind, he would at leaſt have ſaid to his employers, make ſome honourable mention at leaſt in this paper of me, who am going to riſk my life, and caſt off all my private and public connections and friends in this ſervice—to ſacrifice, for your ſake, every remaining hope in life. Let it contain ſome teſtimonial that may point me out to the notice of theſe new friends. Or, if Mr. O'Connor is not worthy, although there is a deſcription of the individual who is to be the bearer of the paper, that there ſhould be any mention in favor of him in it, ſurely he would at leaſt, have had intereſt enough to have prevented any paſſage being inſerted, that would operate againſt him.—Now, was that the caſe with this paper, what would the French Executive Directory have ſaid to Mr. O'Connor if he had brought this paper, and preſented it to them? Who are you, Mr. O'Connor? You deſire us to invade England. What connections have you in England? To whom do you belong there? We know perfectly well who are your connections; it is notorious who the gentlemen are in

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that country, with whom you have paſſed the private and familiar habits of your life, and with whom you are united in the ſtricteſt intimacy and friendſhip.---Have you got any teſtimonial of a connection with any new ſet of friends, or in favour of thoſe with whom you are known to have been hitherto connected? Let us read your paper and ſee what it ſays of theſe friends of yours.---Why, that they are all to a man political impoſtors. Then what are you, *noſcitur a ſociis*. If they are political impoſtors---ſo are you---nay, we are the more convinced of it---becauſe you have ſhewn your own private perfidy, by producing a letter to us, that tends to betray all your private friends, without diſcrimination or exception. Do you pretend to tell us you have been employed to become the bearer of a paper of this nature, and that you could not get inſerted in it even a ſingle exception in your favour, when all the gentlemen of a certain deſcription, are in one general ſweeping clauſe comprehended, as perſons unworthy of confidence, and political impoſtors. Did not thoſe who ſent you chooſe to write in your behalf a ſingle line of recommendation? We muſt ſuppoſe the Executive Directory would have neceſſarily condemned Mr. O'Connor; have pronounced him to be of the ſame deſcription as his friends, viz. adverſe to the cauſe of France, and political impoſtors. There could be no reaſon for mutual attachment, they would have ſaid, between you and them, but becauſe your public and private principles were the ſame. The paper you have brought, admits they are our enemies.---You are the ſame.---What would then have been the conſequence to Mr. Connor? All that he would have got by his errand would have been, to have exchanged the Caſtle of Dublin, for the Temple of France---there to have remained a degraded and miſerable priſoner, without hope of redemption. He is then ſuppoſed to have riſked his life, and caſt off all his friends, to embark in a perilous and diſgraceful buſineſs, with a double ſtring to his bow, (if I may uſe the expreſſion) doubly inſuring his deſtruction. If he is diſcovered by the Engliſh Government, he is tried, as a traitor, for his life at Maidſtone, for being the

bearer

bearer of this paper, and if he preſents it to the Executive Directory, he is ſhut up in a priſon, if not guillotined, in France, for the deſcription it contains of the public principles of his confidential friends, and, conſequently of himſelf, and condemned, upon his own ſhewing, as an enemy, inſtead of a friend, of the cauſe he profeſſed to ſupport.

Gentlemen, I will not treſpaſs any longer on your time—I am perſuaded I need not further urge the impoſſibility of Mr. O'Connor being the author of, or in any reſpect privy to the paper in queſtion, if it was deſigned to be delivered by any body to the Executive Directory of France.

I beg pardon for having detained you and the Court ſo long, but I hope the great importance of the occaſion will be accepted as my apology.—You are to pronounce upon this important caſe: I leave it thus with you, and I am confident you will give it a grave, ſolemn, and diſpaſſionate conſideration, laying aſide every thing but the evidence produced in the cauſe, and the fair bearing of it upon the ſubject in queſtion; and I have not the leaſt doubt, but the verdict you will give, will be that, which you will remember with comfort and ſatisfaction, to the lateſt hour of your lives.

MR.

MR. GURNEY.

May it pleaſe your Lordſhip,

Gentlemen of the Jury,

IT is now my duty to addreſs you on the part of the defendant Mr. Binns, and notwithſtanding the time which has already been conſumed in this great trial, I am ſure it is not neceſſary for me to apologize for treſpaſſing upon your patience, when you recollect that I ſtand here for the life and the honour of a fellow-ſubject, to anſwer a charge which ſeeks his death and infamy.—A charge, too, coming forward at a time, the moſt perilous for a priſoner to meet it, when the ſituation of the country, when the alarms which have prevailed, when the prejudices which have been created, when the paſſions of the people which have been generally inflamed, all contribute to give force and effect to the proſecution, and conſequently to weigh down the perſon who ſtands at the bar accuſed.

Theſe are circumſtances, Gentlemen, which might well depreſs and diſmay even a firm mind; in many caſes I am free to acknowledge they would depreſs mine. But in this I am not depreſſed, I am not diſmayed, becauſe I am confident that I am the advocate of an innocent man, and I recollect that I am addreſſing a Jury of my country.

Gentlemen, it is not neceſſary for me now to ſay any thing to you on the enormity of the crime of High Treaſon, with which the priſoner at the bar ſtands charged—it is confeſſedly the moſt heinous and the moſt atrocious crime that can be committed by man: and, Gentlemen, in proportion to the atrocity of that crime, your own minds and your own hearts will tell you, ought to be the clearneſs and the ſtrength of the evidence. That which your own minds and your own hearts muſt tell you, is likewiſe told you by repeated acts of parliament, which have ſucceeded each other in a long ſeries of ages, and which have provided for a perſon accuſed of High Treaſon, means of defence that are not given to a perſon accuſed of any other crime known to the law of this country. There are peculiar advantages given. He is allowed to have counſel to

conduct

conduct his defence both as to matter of law and of fact—he is allowed a copy of the pannel of the jury—he is allowed a liſt of the witneſſes againſt him—and inaſmuch as the crime with which he ſtands charged, is that which exiſts in the heart of him who commits it, the overt-acts, by which his ſecret intentions are ſuppoſed to be manifeſted, muſt be ſtated in the indictment; and unleſs they are proved, and proved in a manner I will ſtate to you, a Jury cannot pronounce a verdict of guilty.

In addition to all this, Gentlemen, ſuppoſing you ſhould be convinced by the evidence of any one man, the moſt reſpectable upon earth, that the priſoners were guilty of High Treaſon, yet that evidence would be inſufficient in a court of law, becauſe of ſuch importance has the legiſlature thought it to protect perſons who are accuſed of this crime, that there muſt be two witneſſes, either both of them to the ſame overt-act, or one of them to one overt-act, and the other to another overt-act of the ſame ſpecies of Treaſon. The meaning of which is, if there ſhould appear before you one witneſs to prove an overt-act of compaſſing the King's death, and another witneſs to prove an overt act of adhering to the King's enemies, that would not be ſufficient, becauſe they are two diſtinct and different ſpecies of Treaſon, and by law both the witneſſes muſt be to overt-acts of the ſame ſpecies of Treaſon.

Gentlemen, theſe acts of parliament giving priſoners in caſes of High Treaſon privileges of this nature and extent, were not enacted without the moſt imperious neceſſity for enacting them. Times have been when courts of juſtice (which I need not ſay were a diſgrace to the name of courts of juſtice) have been made the means and inſtruments of *judicial murders*; for no other name do ſome of thoſe *tranſactions* in paſt ages which bear the title of *trials* deſerve, than *judicial murders*, when the law was tortured for the purpoſes of oppreſſion, and when Juries, influenced either by the authority of the proſecutors, by the circumſtances of the times, or their own paſſions and prejudices, ſhed the blood of innocence.

Gentlemen, ſuch being the law of High Treaſon, ſuch the enormity of the crime, ſuch the ſtrength of proof which is re-

requiſite, let us come to the conſideration of the caſe which is now before you. And what is the character which is given of this caſe by the Attorney General? The Attorney General in his opening ſaid to you, with a ſerioufneſs and ſolemnity well becoming the occaſion, that he ſhould make out ſuch a caſe againſt the priſoners at the bar, that he thought it was not within the compaſs of poſſibility for them to give ſuch an anſwer to it, as to entitle them to a verdict of acquittal. Gentlemen, that language may be ſomewhat new to you, but it is not new to me. I have heard the ſame kind of language, from the ſame learned gentleman, delivered in the ſame ſolemn manner more than once, or twice, or thrice, or even four times; but I never yet knew that Jury, in a caſe of High Treaſon, who at the concluſion of the cauſe coincided with him in judgment. Therefore, Gentlemen, you will not take it as any thing like a matter of courſe, that becauſe a gentleman of his high rank, reſpectable character, and great talents, is very ſeriouſly convinced that he has an unanſwerable and irreſiſtible caſe, that therefore his caſe is of that deſcription; becauſe this is the ſixth caſe of High Treaſon that has occurred within the laſt four years, and upon all the five former, although he was equally confident, yet in every caſe the Jury felt no difficulty in being of a contrary opinion.

Gentlemen, what is the outline of the caſe on the part of the proſecution? The charge is, that the five perſons at the bar were engaged in a treaſonable conſpiracy, and that the object of that conſpiracy was to carry a paper to the Executive Directory of France, the ſubſtance of which is ſtated in the indictment, and is the main overt-act relied upon—a paper to communicate intelligence and information to the Executive Directory of France, to enable them with more probability of ſucceſs, to effect the invaſion of this country.

Gentlemen, you have heard from the learned gentleman who has addreſſed you on the part of Mr. O'Coigly and Mr. O'Connor, a great deal of moſt important obſervation on the improbability and abſurdity of that charge. In the firſt place it is demonſtrated, that there was not that connection ſubſiſting between all the five perſons who ſtand at the bar,

which can impreſs upon you any reaſonable belief that they could repoſe ſuch a degree of confidence in each other, in a caſe in which the life of every one of them was at ſtake. Good men do not aſſociate for good purpoſes without ſome knowledge of each other; never did the caſe yet occur of bad men conſpiring for criminal purpoſes, eſpecially purpoſes the moſt criminal, and attended with the greateſt danger, without the completeſt knowledge of each other, and the firmeſt confidence in each other. Therefore as far as that obſervation applies to any of the priſoners who did not know each other antecedently, and to ſome of them, eſpecially to Mr. Binns, it applies moſt forcibly, it abſolutely deſtroys the fundamental principle upon which the proſecution is founded; namely, that all the five priſoners were engaged in the treaſonable conſpiracy which is the ſubject of the indictment.

The improbability of five perſons being engaged in ſuch a treaſonable conſpiracy as this is charged to be, appears more and more glaring the more cloſely you examine it. If it were in the contemplation of any bad and wicked man in this country to ſend a paper of this ſort to the Executive Directory of France, is it to be believed that he would not take ſome reaſonable precaution as to the manner in which he would ſend it? If he wanted ſecrecy, would he prefer five men to one? Is it that which one man could not do? It is a ſingle paper, of no weight, of no bulk; to the carriage of which one man was fully equal. Surely then that was an infinitely more eligible method of accompliſhing the wicked purpoſe, which is ſuppoſed to have exiſted in the mind of ſome man or other, than the mode now ſuggeſted. In reply to this, I know it will be ſaid that there is always a certain mixture of folly in every crime, and that you muſt negative the exiſtence of all crime, of you diſbelieve a charge of crime, becauſe you find it accompanied with folly. Undoubtedly, gentlemen, there always is ſome mixture of folly with crime, becauſe it is as fooliſh as it is wicked for a man to be guilty of it; but where you find crime, you find that degree of caution and warineſs which is adapted, or at leaſt deſigned, to protect both the author and the inſtrument from ſure

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and certain detection, and from ſure and certain puniſhment. It has already been obſerved by the learned gentleman, who preceded me, and I ſcarcely need repeat it, that if any thing is to be gathered from the contents of the paper, and when one part of them is made uſe of as evidence againſt us, ſurely we are intitled to avail ourſelves of any part which affords a preſumption in our favour, the paper ſpeaks of but one perſon as the bearer, and it has not the leaſt relation or reference to more than one. Upon former occaſions, when the conveyance of papers was made the ſubject of charge againſt two perſons, it was conſidered by the Judges who tried thoſe caſes, that it was moſt important evidence againſt thoſe two, that two perſons were mentioned in the papers which were found in the cuſtody of one.

Gentlemen, the ſame degree of caution which you may naturally expect from the author of the criminal purpoſe, you muſt expect from the agent, who is conſcious of the criminal purpoſe he is executing. See how that agrees with this caſe—Theſe five defendants are apprehended at Margate. All their baggage is ſeized. You find ſome things very carefully packed up: you find the money packed up in a very excellent box, evidently made for the purpoſe of containing money. You find the greateſt degree of care taken of thoſe things which are the moſt material; but where do you find the treaſonable paper? Where do you find that which is the ground and foundation of the whole of this proſecution? Where do you find that paper which theſe five men are ſuppoſed to have conſpired to carry to the Executive Directory of France? Concealed about their perſons? No.---Concealed in any part of their baggage---within a falſe bottom of a trunk, or any thing of that ſort? No---nothing of that ſort---Not on their perſons, not in their baggage, although their baggage afforded means of concealment, but in a pocket of a great coat, hanging upon the back of a chair, in a room, into which ſeveral perſons, who are not here, had gone in and out before the coat was brought down ſtairs, and, as the witneſſes ſay, the paper taken out: therefore you find that, which cannot be attributed to the folly which is ever mixed with crime, but that which abſolutely de-

monſtrates, that all the perſons who now ſtand at the bar, and more eſpecially Mr. Binns, for whom alone I am Counſel, were unconſcious of the exiſtence of a paper of that importance. Otherwiſe a paper of that importance, upon which they muſt know all their lives depended, they would not have ſuffered to be there, where a waiter coming in might have taken it out, the conſequence of which would be, they would find themſelves the next day in gaol, and ſoon afterwards on their trial for High Treaſon.

Another obſervation upon the improbability of this charge of treaſonable conſpiracy is, that there is no other paper found on the perſon of any one of the priſoners, which at all corroborates that which is the foundation of the charge. It is more eſpecially my duty to remind you, that no paper was found on Mr. Binns, which can give the leaſt countenance to that paper.

Now, Gentlemen, is there a pretence for ſaying, that you have not the whole caſe before you? The Crown have given you every ſcrap of paper that was in the pockets of every one of them, even of the moſt private nature, ſo that you muſt perceive clearly from all the evidence you have heard, that their apprehenſion muſt have been unexpected to themſelves; and, therefore, no preparation was made for it by the deſtruction of any paper whatever.

Another obſervation I am intitled to make. Since the apprehenſion of theſe defendants, the Habeas Corpus Act has been ſuſpended, and a vaſt number of perſons have been apprehended, upon whom buſy, meddling rumour has fixed a concern in correſponding with the enemy. Yet there is not a tittle of evidence before you, either that there does exiſt, or that there ever did exiſt ſuch a body as this paper purports to come from. It purports to be an addreſs from 'the Secret 'Committee of England to the Executive Directory of 'France.' That defect of proof, therefore, fortifies the obſervations which have been ſo forcibly made to you by Mr. Plumer, on the improbability and abſurdity of the whole of this charge.

I come now, Gentlemen, to the evidnce, as it applies more parti-

particularly to my Client, Mr. Binns. It is ſtated to you, and there is evidence to confirm the ſtatement, that Mr. Binns left London, went to Graveſend, from thence to Rocheſter, Canterbury, and Whiſtable, where he negociated for the hire of a veſſel; that then he went back to Canterbury, and afterwards to Deal, where he entered into another negociation for the hire of a veſſel, to take ſome perſons to Fluſhing or to France. This is the outline of the caſe againſt Mr. Binns, and I do not feel myſelf called upon to encounter theſe witneſſes, by calling witneſſes to contradict them. But in this caſe, the queſtion you are to conſider is, not whether Mr. Binns is, or not guilty of a *miſdemeanor*, but whether he is guilty of *High Treaſon*: for that very act of parliament, upon which the laſt count in the indictment is founded, makes it an offence puniſhable with ſix months impriſonment to go to France, or even to go on board a ſhip, with an intention to repair to France without a licence. I intreat you, Gentlemen, throughout the whole of this trial, to keep that conſtantly in your mind, becauſe you will find, that that is the clue which will enable you to unravel that concealment, artifice, and myſtery, which was neceſſarily reſorted to by the defendants, and which is attempted on the part of the crown to be perverted into evidence of High Treaſon.

I do not affect to deny that Mr. Binns was conſcious he was committing an offence againſt the laws of his country, in hiring a veſſel for perſons to go to Holland, or to France, without a licence, but I beg you to conſider what ſort of an offence it is---not *malum in ſe*, not criminal in itſelf, but an offence merely becauſe an act of parliament has made it an offence. If that act did not exiſt, it would be no offence for a man to go to France, but the act has forbidden it, and, therefore, it is an offence—not a moral offence, but an offence created by act of parliament. When men are conſcious they are committing an offence againſt the law, undoubtedly they uſe ſome concealment and myſtery to prevent their deſign being diſcovered, becauſe puniſhment follows diſcovery; and you will not wonder therefore, that Mr. Binns being engaged to hire a veſſel for Mr. O'Connor to take him to the continent, ſhould aſſume another name rather than his own, be-

cauſe he thought his own would make him liable to obſervation in conſequence of his having been tried at Warwick aſſizes for ſedition, although he had been acquitted. This is not a reaſon ſuggeſted now for the firſt time for the purpoſe of defence. For the witneſs (Mahoney I think) has told you, that Mr. Binns, at the time he informed him of his real name, aſſigned that reaſon for aſſuming the name of Williams.

A circumſtance was very much relied upon by the Attorney-general in his opening, that when the men at Whitſtable urged the danger of being delayed at Fluſhing on account of the embargo, Mr. Binns ſaid there was no danger of that ſort, the veſſel would come back ſoon, almoſt directly; and ſo certain was he of it, that he was ready to depoſit 300l. to forfeit 100l. a month if the veſſel ſhould be delayed. You have ſome evidence undoubtedly of a negociation of that deſcription, but I appeal to you whether it is at all ſurprizing when a man is ſet upon a favourite object, that he ſhould ſay that which he thinks will remove the obſtacles raiſed by the perſons with whom he is treating. Is it not done every day by every man who hears me? What was the obſtacle raiſed? the detention of the veſſel. The idea that it would not be detained, was therefore neceſſary to be impreſſed upon them, in order to ſucceed in the object of his miſſion. I might remark here, that the witneſſes who related this converſation, differed materially in the words which Mr. Binns is ſuppoſed to have made uſe of. But it is of little conſequence, when you find that he only ſaid that which was moſt likely to contribute to his purpoſe, by removing the obſtacle that had been put in his way.

What is there in this or any other part of Mr. Binns's conduct, which proves that he was engaged in a traiterous deſign? What is there that proves him to have had any knowledge of that paper, which is ſaid to have been in the great coat pocket of Mr. O'Coigly? The Attorney-General felt that it was neceſſary for him to prove a cloſe connection between Mr. Binns and Mr. O'Coigly, as a means of proving further the connection between Mr. Binns and that paper; and the means by which he attempted to prove that was, that a French paſſport of Mr. O'Coigly's was found in a box belonging to Mr. Binns. No evidence of that ſort has been given, no evidence has been laid

laid before you to ſhew where that paſſport, which has been read, was found. If the fact were proved as it was opened, the preſumption would be but feeble, becauſe a paper which has formerly belonged to one perſon may, as a matter of curioſity, be in the poſſeſſion of another, without proving ſuch a cloſe and intimate connection as muſt be proved, in order to lay any foundation for the belief of the exiſtence of a treaſonable conſpiracy between them: yet, even that preſumption fails the proſecutors, becauſe there is not a ſhadow of evidence to ſubſtantiate that part of the opening of the Attorney-general.

Then, Gentlemen, what is there in this evidence againſt Mr. Binns which at all connects him with that paper upon which all the overt-acts depend? two or three of the overt-acts in the indictment, namely, the treaties for veſſels at Whitſtable and at Deal, which are proved upon him, are acts indifferent in themſelves, at leaſt indifferent as to the charge of high treaſon. They muſt be made by the Crown to receive their criminal complexion, colour, and nature, from the paper which is ſaid to have been found in the great coat pocket. You will never forget, I am ſure, that the whole charge is founded in that paper, for if that paper did not exiſt, no charge could exiſt; and unleſs they are able to make out to you that the purpoſe of each and every one of the priſoners, was to convey that paper to the Executive Directory of France, ſo far as they fail in proving any connection with the paper, ſo far they fail in proving their indictment.

Why then, Gentlemen, what ſort of evidence is there, that Mr. Binns knew any thing of this paper? Is it proved that there was any connection between Mr. O'Coigly and and Mr. Binns relating to this journey before the commencement of the journey? There is not a tittle of proof. The utmoſt extent of the evidence to ſhew that they had ever ſeen each other before they met at the King's Head at Margate is, that they had lodged in the ſame houſe. There is nothing of intimacy or connection, or even acquaintance proved to have exiſted, much leſs of conſultation, or employment, or agency with reſpect to this journey. The evidence which is to fix on Mr. Binns a knowledge of this paper, and a criminal participation in the

purpoſe of conveying it to the Executive Directory, falls ſhort even of proving any connection between him and the perſon whom the proſecutors charge with being the actual and perſonal bearer of it.

Then if Mr. Binns does go to one place and to another for the purpoſe of engaging a veſſel to go over to France, yet if you find that all his conduct is clearly referrible to one conſideration, namely, to that of his conſciouſneſs, that he was doing an act, which if detected, would ſhut him up within the walls of a priſon for ſix months; when you find it referable to that which is the ſmaller ſpecies of offence, can you perſuade yourſelves to mount to the higheſt ſpecies of crime, without direct, manifeſt, demonſtrable evidence, to convince you that he muſt have known of the exiſtence of that paper, and that he muſt have been a party to a conſpiracy to convey that paper to the Executive Directory of France, and conſequently, that he is a man who has either compaſſed the king's death, or adhered to the king's enemies, or compaſſed the invaſion of this realm by foreigners and ſtrangers? This is a caſe which, of all others, requires the moſt plain, direct, and manifeſt proof, and you are called upon not on that plain and manifeſt proof, but on proof of conduct, which is referable to another motive in every part of it, to infer and to conclude from that, that he was guilty of the higheſt ſpecies of offence of which man can be guilty.

Why, Gentlemen, this is not to be a trial of ſkill between the counſel for the Crown, and the counſel for the priſoners, which is the acuteſt reaſoner, which is the ableſt logician, which is the moſt ingenious ſophiſt. God forbid, that ſuch a conteſt ſhould be raiſed in a caſe of High Treaſon. It is not whether the counſel on one ſide is able to ſtate an inference more probable than the counſel on the other ſide, but whether the counſel for the Crown, who are proſecutors here, have laid before you ſuch clear, direct, and manifeſt evidence, that you have not a ſhadow of doubt in your minds, but that all the conduct of Mr. Binns in this matter is referable to High Treaſon, and can be referred to nothing elſe. For if it becomes a matter of the ſmalleſt doubt in your minds, whether the conduct of Mr. Binns is to be referred to a traiterous purpoſe, or to

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the purpoſe for which I contend, namely, that of procuring a veſſel for perſons to go to Holland or France, without a licence, it is your bounden duty to pronounce a verdict of acquittal.

Gentlemen, there is but one caſe that immediately preſſes upon my mind of any former trial for High Treaſon, which bears any cloſe analogy to the preſent caſe; and undoubtedly the evidence, upon which two perſons were convicted in that caſe, cannot be mentioned at the ſame time with the evidence which is now before you, unleſs it be to contraſt the weakneſs of this with the ſtrength of that. That was the caſe, in the year 1690, of Lord Preſton and Mr. Aſhton, who were indicted of compaſſing the death of King William and Queen Mary. They were apprehended concealed in the hold of a veſſel, in the very act of paſſing over into France to convey letters and intelligence to King James the Second, who you know had been but lately dethroned. Upon the perſon of Mr. Aſhton were found letters from various perſons in this country to King James, conſtituting unqueſtionably a treaſonable correſpondence. The guilty knowledge of their contents was fixed on Mr. Aſhton by his being ſeen to conceal them in his boſom, by his denying the poſſeſſion of them, and by his urgent ſolicitations to Captain Billop, who had apprehended them, to deſtroy the papers: added to which, the papers themſelves ſpoke of more than one perſon to be concerned in conveying them. The knowledge of Lord Preſton was proved by two ſeals of his lying along with the papers when they were taken up by Mr. Aſhton and concealed in his boſom, by a paper or two contained in the pacquet being in his hand-writing, by one of the letters mentioning a Lord as the bearer, and by his joining with Mr. Aſhton in urging Captain Billop to deſtroy the pacquet.

Theſe two caſes go infinitely beyond the preſent in ſtrength of proof, but I would particularly call your attention to that of their companion Mr. Elliott, who was indicted with them. He was found in the ſame place of concealment, and he joined with Lord Preſton and Mr. Aſhton in intreating Captain Billop to deſtroy the papers. He repeated thoſe intreaties

again

again and again with great earneſtneſs, and with offers of reward; by which he ſurely evinced ſome knowledge of their nature and tendency. Yet becauſe there was no plain and direct evidence to connect him with the papers, the Attorney General of that time never ventured even to put him on his trial; and yet that was a period of great anxiety and of conſiderable alarm; it was only fifteen months after the Revolution, when no man doubted the exiſtence of plots and conſpiracies to reſtore King James, and when it was a point of infinite conſequence to the then exiſting Government to ſuppreſs them, and to make ſevere examples of thoſe conſpirators who ſhould be detected.

Compare this caſe of Mr. Elliott who was not tried, with that of Mr. Binns who now ſtands upon his trial. What evidence have you that Mr. Binns ever ſaw that paper which is made the ground of charge againſt him? What conſciouſneſs of a knowledge of its exiſtence has he ever betrayed? Can you be induced to conclude that he did know of it, and that he was a party to a conſpiracy to convey it to the Executive Directory of France, from his converſation when treating for the veſſel, endeavouring to remove the objection of the danger of its detention, in giving them hopes of its ſpeedy return, and from the diſguiſe he put on in aſſuming another name than his own, when you find that all this was natural, conſiſtent and probable conduct for a man who was conſcious he was committing a miſdemeanor?

Gentlemen, I do think it would be a moſt dreadful precedent in a caſe of High Treaſon, for a Jury, where conduct may be imputed to either of two motives, to ſay it ſhall be imputed abſolutely to that motive which is the moſt guilty—eſpecially in a caſe where the charge is founded upon a ſuppoſed knowledge of a paper, and a concern in carrying that paper to the Executive Directory of France—where there is not a ſhadow of proof that Mr. Binns ever ſaw the paper, and where, ſubſequent to his apprehenſion, no witneſs is brought to prove any one word he has ſaid, or any one act he has done, which has evinced the leaſt conſciouſneſs of the exiſtence of that paper.

But

But it is ſaid, that ſubſequent to the apprehenſion of the priſoners, inconſiſtent and contradictory ſtories are told by ſome of them. It is not pretended that that can be imputed to Mr. Binns. The ſtories and accounts of the other priſoners are not evidence againſt him. But you cannot fail to obſerve, that thoſe inconſiſtencies and contradictions are all capable of explanation by the conſciouſneſs which they had, that they had committed a miſdemeanor, in negociating for the hire of a veſſel to go to France without a licence, whether they had or had not completed, even that offence may be doubted, as they were not actually on board a veſſel ſo deſtined; be that as it may, alarmed for the conſequences to which they thought they had expoſed themſelves, they might naturally enough be induced to give different accounts in hopes of averting thoſe conſequences.

Gentlemen, the caſe ſtanding thus on the evidence for the Crown, I aſk you why the priſoner at the Bar, Mr. Binns, is to be called upon to give any anſwer to it?—Is his conduct myſterious? Is his conduct equivocal? Then let that myſtery be cleared up by the Crown, and let it be cleared up ſo as to eſtabliſh a caſe of criminality, and of criminality commenſurate with the charge, before he is to be called upon to give any explanation whatever. The learned gentleman who preceded me, inforced this topic upon you, as well as every other, ſo much at length, and with ſo much ability, that it is unneceſſary for me to enlarge. If there is myſtery in the caſe, as counſel for a defendant, I am entitled to ſay, myſtery it may remain for me. Your charge is High Treaſon, and your proof is myſtery. Myſtery is not High Treaſon. I am not bound to clear up that myſtery, to prove my Client's innocence. The Proſecutors are bound to clear it up ſo as to demonſtrate his guilt.

The priſoner ſtands at the bar. He puts in his plea of not guilty, and it is to be preſumed that that plea is true, unleſs it be torn up by the roots by the proof which the crown produces. Now, I aſk you, is there that caſe laid before you on the part of the crown, which completely ſatisfies you, beyond all poſſibility of doubt, that he is guilty? If there is not,

what

what has he to do with giving an anſwer to the charge? He lies upon his oars and ſays, I am not guilty, but I am not to prove myſelf not guilty, for I am to be preſumed to be not guilty till you have proved me guilty—prove me guilty therefore.

But it may be ſaid, you are here connected with Mr. O'Connor thus far at leaſt, that you were the agent employed by Mr. O'Connor, for the purpoſe of procuring a veſſel for him to go to Fluſhing. Take it to be ſo—what then? Is there any evidence that Mr. O'Connor had any treaſonable purpoſe? Or if there be, is there any evidence that Mr. Binns was a party to that treaſonable purpoſe?

Upon the evidence, which is now before you, therefore, I have no doubt you would, without difficulty or heſitation, acquit him of this charge. But every preſumption in favour of Mr. Binns is fortified extremely, when the caſe of Mr. O'Connor is opened to you, and when it is ſtated that Mr. O'Connor found it neceſſary to quit Ireland, on account of proſecutions, for being ſuppoſed to have a concern in a newſpaper, called The Preſs. Having already ſuffered ſeverely in his health, ſo as to endanger his life, from an impriſonment which he had endured in Ireland, an impriſonment of no common rigour and danger, he was anxious to avoid the repetition of that confinement from which, perhaps, he might not eſcape with his life, and therefore he came to England, thinking that here he ſhould be perfectly ſafe from proſecution and perſecution. But he was adviſed that even here he was not ſafe, for that upon any charge of an offence in Ireland, he might be apprehended in this country and be conveyed to Ireland; and, therefore, in order to preſerve himſelf from being again immured in a priſon, it was neceſſary he ſhould quit England. Why then, Gentlemen, if Mr. O'Connor was adviſed to do that, not merely by honourable friends who felt an anxiety for his ſafety, but if he was adviſed to do it by a great legal authority, who undoubtedly, upon this occaſion, united his legal knowledge and advice with the friendſhip which he felt for Mr. O'Connor, whom he, as well as other gentlemen of high rank and unqueſtionable honour, have known and reſpected for

many

many years; if he was adviſed to do that, and took meaſures that demonſtrated his intention to comply with that advice, why are you to impute Treaſon to Mr. Binns, who merely acted as his agent to procure the veſſel in which he was to take his paſſage?

It is not at all wonderful that when there were charges againſt Mr. O'Connor in Ireland, he ſhould be deſirous of leaving that diſtracted country.---For if the ſtate of that country be, as it is repreſented; if it be a country where ſociety is diſorganized, and all the bonds of ſocial intercourſe diſſolved; where every gentleman's houſe is turned into a fortreſs, the doors and lower windows barricaded to guard againſt attack, and the inhabitants gaining acceſs to it only through the upper windows by a ladder. If it be a country where the landlord is armed againſt the tenant, and the tenant againſt the landlord; where too the people are oppreſſed by a licentious ſoldiery, the character of whom, by their late commander in chief, is that they are '*formidable to every* '*body but the enemy*'—a conciſe deſcription of every ſpecies of enormity, an epitome of oppreſſion, confuſion, miſery, and diſtraction—is it not the laſt country in which ſuch a man as Mr. O'Connor, who had made himſelf obnoxious to the miniſters there by his oppoſition to their meaſures, would chooſe to remain, and the laſt country to which he would chooſe to return, when once he had eſcaped from it? And if that be the caſe with reſpect to Mr. O'Connor, how ſtrongly does it fortify the caſe of Mr. Binns? Becauſe every thing, whatever, which contributes to prove the innocence of Mr. O'Connor's intention in quitting this country, tends ſtill ſtronger to prove the innocence of Mr. Binns, who was acting merely as his agent.

Then it is conſidered a matter of great importance, on the part of the proſecution, to connect Mr. Binns cloſely with Mr. O'Coigly. The proſecutors would wiſh you to believe that, from the commencement of his agency in this buſineſs, he was in cloſe connection with him. Look at the evidence---there is not any evidence before you that Mr. Binns even knew Mr. O'Coigly was to be one of the party which was to

accompany

accompany Mr. O'Connor. It is not proved that he ever ſaw him before he arrived at Margate. Beſides which, it will be proved to you in evidence that before the arrival of Mr. O'Coigly in London, very early in the month of February, Mr. Binns, at the inſtance of Mr. O'Connor, was employed in endeavouring to procure him a paſſage to a neutral port, and it failed only becauſe the captain objected to take a perſon on board without a paſſport, and the applying for a paſſport would have been the very means of defeating the object he was ſo anxious to attain.

Then, Gentlemen, what is the queſtion which you have to conſider? a plain, clear, naked queſtion of fact, of which YOU and YOU only are the judges. There is no queſtion of law involved in the conſideration of this cauſe; but you are to ſay, by your verdict, whether you believe that Mr. Binns, the defendant, has either compaſſed and imagined the death of the king, or has adhered to the king's enemies, or has compaſſed and imagined the invaſion of this realm of Great-Britain, by foreigners and ſtrangers, and has committed the overt-acts charged in the indictment, or ſome one of them, in purſuance of that treaſonable object.---It is a matter in which no legal knowledge can aſſiſt you, becauſe YOU muſt believe the Treaſon to have exiſted in his heart, and the overt-act to be done in purſuance of that treaſonable intention, before you can approach a verdict of guilty.

Gentlemen, ſo much has been ſaid, and ſo ably ſaid, by the learned gentleman who preceded me, upon the general nature of the conſpiracy which is charged, and upon the defects in the evidence by which it has been attempted to be proved, ſo much has been ſaid in obſervation, upon the particular parts of the caſe, that I do not feel myſelf called upon to go minutely into all the circumſtances, having furniſhed you with that which, I think, is the clue to unravel the whole—that all theſe little circumſtances of concealment and myſtery are to be accounted for, by referring the conduct of Mr. Binns, to the apprehenſion of being proſecuted for a miſdemeanor in hiring the veſſel.

Gentlemen, if the evidence which you have heard does not in your opinion, fix upon Mr. Binns, clearly, and beyond all queſtion,

queſtion, the guilt of that crime with which he ſtands charged, I am ſure you will not heſitate a moment about the verdict which it is your duty to pronounce. You will not conceive, on account of the ſerious and awful ſituation of the country, that you ought to ſtrain evidence againſt priſoners in a caſe of High Treaſon. Becauſe there are alarms, well or ill-founded, of an invaſion, you will not imagine, that ſtraining the law, or ſtraining the evidence, againſt perſons accuſed of endeavouring to co-operate with the enemy, is a means of defence againſt that enemy. Nor will you think the holding out that there are perſons in this country, who are connected with the French, will contribute at all to produce that cordial and unſuſpicious union of all ranks of people, which every good man muſt ardently deſire when his country is threatened with invaſion. Neither is it, becauſe there are rumours propagated, either by weak or by wicked perſons, that there are people of that deſcription who are ſo connected, that you will at all endeavour to ſtrain any part of the evidence, or any part of the law, for the purpoſe of involving perſons in the guilt of High Treaſon. You will rather be inclined to believe, that which is the fact, that theſe are not perſons who are ſo loſt to every ſenſe of virtue, ſo deſtitute of that love for their country, which every man ought to cultivate, as to ſeek the invaſion of their country by a powerful and formidable enemy. Neither, I am ſure, will you be influenced by any prejudices which have been attempted to be created, by publications in newſpapers, circulated with moſt malignant induſtry, for the purpoſe of impreſſing upon the mind of every man in this country, not only that there exiſts a conſpiracy of the nature which is charged, but that the perſons who now ſtand before you are perſons who are engaged in that conſpiracy. You will not ſuffer any thing of that ſort to influence your minds, but remembering the oath which you have taken, you will ſtrictly adhere to it, and a true verdict you will give according to the evidence, and therefore you will not ſuffer any emotion, you will not ſuffer any paſſion, you will not ſuffer any prejudice, that may

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have been raiſed in your minds, to be turned, by any means whatever to the injury of the defendants.

You will conſider, likewiſe, the infinite importance it is of, to preſerve a diſtinction between crimes, and that it is not becauſe any perſons may have been engaged in that, which if perfected, would have amounted to a miſdemeanor, and that of a ſort which is not a moral offence, that therefore you ought, without the moſt direct, plain and manifeſt proof, to involve them in the guilt of High Treaſon. You will conſider the diſtinction between one crime and another, to be as important, even, as the diſtinction between innocence and guilt; and therefore where the conduct of men can be referred to an offence of the ſlighteſt nature, you will not, unleſs the evidence irreſiſtibly compels you, refer it to the moſt enormous crime, which the baſeſt and wickedeſt of mankind alone can commit.

Gentlemen, Mr. Binns now ſtands before you for his character and his life; for the greateſt ſtake for which any man can ſtand before a Jury of his Country—and you, I am ſure, will true deliverance make between him and his accuſers. If you ſhould even think his conduct myſterious, which I truſt you will not, becauſe I conceive it to be ſufficiently explained, you will not therefore take it to be guilty, and guilty in the extent to which it is charged—but you will ſay that that which is *myſtery* is not proved, to your ſatisfaction, to be *High Treaſon*.

Gentlemen, your verdict is of infinite moment, not only to the priſoner, who now ſtands on his deliverance, but to the people of England, whom you repreſent, and by whom it will be reviewed. It will be reviewed alſo by a long, long, enlightened, and ſevere poſterity.---It will be the theme of praiſe, or of execration in ages to which the names of few of us would reach, but that this trial will confer on them an immortality of honour or of ſhame. It will confer an immortality of honour upon you, if, faithful to the ſacred truſt repoſed in you by the conſtitution, you yield not to paſſion, to prejudice, to influence, or authority—of ſhame and infamy,

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on the other hand, if you could allow the circumſtances of the times, the influence of prejudice, or the authority of the proſecutors, to tyrannize over your judgment, and preſcribe your verdict. I am ſure you will fulfil the duty you owe your country with integrity and firmneſs, and you will experience, as all Juries have, who have ſo done, the gratitude of that country.

Mr. Juſtice Buller. Mr. Gurney, you ſtated that it was not proved how the paſs was found.—I took it, it was produced by Mr. Ford as found in ſome of theſe packages.

Mr. Gurney. I believe, my Lord——

Mr. Dallas. As I take the fact to be, it was found in a box, which they contended belonged to Mr. Binns, but they failed in proving that it did belong to Mr. Binns.

Mr. Attorney General. I called a witneſs, of the name of Jones, to prove theſe facts, that he took a box from Evans's, the Secretary of the London Correſponding Society; that the box was Binns's box, and that in that box the paſs was found. Jones admitted the fact of his taking a box from Evans's, but he could not prove that that box was Binns's.—The paſs therefore ſtands only upon the evidence of O'Coigly's handwriting being found upon it.

MR. FERGUSSON.

May it pleaſe your Lordſhip,

Gentlemen of the Jury,

I AM of Counſel for John Allen, one of the priſoners at the bar, and in the courſe which it has been thought fit to adopt for the conduct of this defence, it is allotted to me, in this ſtage of the buſineſs, to addreſs you on his behalf. Gentlemen, alarmed and agitated as I am, to have in any degree committed to me, the defence of a man upon trial for his life; there is one thought which ſupports me under the weight of this charge, that the gentlemen with whom I am aſſociated in this cauſe, have had the neceſſity impoſed upon them, in conducting the defence of their clients, of likewiſe conducting the defence of mine.

Gentlemen, I have none of thoſe advantages of legal talent and experience which they poſſeſs. I have not even thoſe common advantages which it has generally been thought that a counſel does poſſeſs in defending the cauſe of others.—I have heard it remarked, that there was a wide difference between the taſk which was impoſed upon a counſel who was conducting the defence of a priſoner, and that which was impoſed upon the priſoner himſelf, who was pleading his own defence; 'there is a wide difference,' I have heard it ſaid, 'between the ſportful combat of foils, and that which is ſeri-'ouſly diſputed with unbaited ſwords.'

Gentlemen, this cauſe is not to me the 'ſportful play of 'foils.' In the verdict which you are this day to give—is involved the life of a man, with whom I have long lived on terms of the moſt endearing friendſhip. But to ſay to you, any thing upon his caſe, would be to run the riſk of weakening that impreſſion which I ſee has been made upon your minds, by the very able and eloquent opening which you have heard of his defence. I ſhall therefore ſtrictly confine myſelf, as in my duty I am bound, to the caſe with which I am particularly charged.

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Gentlemen, it will be neceſſary for me, ſhortly, to conſider two diſtinct points; the firſt is with reſpect to the general nature of this charge; the ſecond will be how far the perſon whom I am to defend is connected with that charge.—With reſpect to the law upon the ſubject, you all of you know that it is founded upon the cleareſt and plaineſt words, which it is poſſible for language to convey. I mean the words of the great Statute of Treaſons of Edward the Third: In that, the only treaſons which are applicable to this indictment, are compaſſing the king's death, and adhering to the king's enemies. Gentlemen, it certainly, in my opinion, was the original intention of our forefathers who framed this act, that the firſt branch, namely, that of compaſſing the death of the king ſhould be confined, ſtrictly and literally confined, to direct attempts upon the king's perſon.

With reſpect to adhering to the king's enemies, there are added words which will ſufficiently explain what was the meaning of the framers of that Statute, in that particular branch of it—the expreſſion is, that whoever ſhall be adhering to the king's enemies, *giving them aid and comfort*, that is, gentlemen, according to what has been laid down by our beſt writers upon the ſubject, I mean Lord Coke, and Lord Hale, it is principally directed towards abetting our enemies, in, for inſtance, delivering up forts into their poſſeſſion, in giving them any aſſiſtance in landing, or in giving them actual aſſiſtance in a foreign country, for the purpoſe of procuring an invaſion, or facilitating a deſcent upon the country.

But it is unqueſtionable, Gentlemen, that there have been conſtructions of theſe two branches of the Statute, which deviate a little from that which I take to have been the original law. It has been conceived, and it has been laid down as law, in a variety of caſes, that conſpiring to levy war againſt the king, might be an overt-act of compaſſing the king's death; but in this conſtruction no Judge that I know of, I am ſure no good Judge, has ever laid it down as law, that a conſpiracy to levy war, could be a conſtructive compaſſing the king's death, unleſs the conſpiracy to levy war,

was for the purpoſe of a direct attempt upon the king's perſon, either for the purpoſe of putting him to death, or getting him into the power of conſpirators, which it was naturally ſuppoſed would lead to his death and deſtruction. It was ſo laid down on the trial of the virtuous Lord Ruſſel, who certainly, however he might have complained of his Jury, had no complaint to make of his Judge. The Judge, Lord Chief Juſtice Pemberton, laid down the law thus—The queſtion, Gentlemen of the Jury, for you to conſider, is not whether my Lord Ruſſel conſpired to levy war, but whether he conſpired to levy war with an intent to put and bring the king to death; and I conceive that no other poſſible, at leaſt no other wholeſome conſtruction of this part of the ſtatute can be given. There has certainly alſo been a conſtruction that a conſpiracy to procure an invaſion of the country by a foreign enemy, and taking any ſteps for that purpoſe, the being found in the way to a foreign country at enmity with ours—and being ſo found with treaſonable papers in your poſſeſſion, may, in certain caſes, form a ſufficient overt-act, not merely of adhering to the king's enemies, but alſo of compaſſing the king's death.

Gentlemen, that certainly was ſo laid down in the caſe which has been this day cited, and of which I ſhall have ſomething more to ſay to you in the courſe of my addreſs. It was ſo laid down in the caſe of Lord Preſton, and Mr. Aſhton. The crime charged upon them, was going to France with treaſonable papers, and this charge was laid as an overt-act of both ſpecies of treaſon, of compaſſing the king's death, and adhering to the king's enemies. But I beg you will remark, that in this caſe of my Lord Preſton, there was not a conſtruction or inference, but a certainty, that this attempt of my Lord Preſton, and Mr. Aſhton, to go into France, was with a view not merely to depoſe, but alſo to bring the king to death. It was very ſhortly, I believe within the period of a twelvemonth after the Revolution, when tyranny had been chaſed from this country, and when we had received our deliverer, King William; it was ſhortly after the Rebellion had been cruſhed in Ireland, when, I will not ſay half, but,

I believe

I believe the majority of the country were in favour of the abdicated family; it was at that moment that Lord Preſton, and Mr. Aſhton, Lord Preſton having been Secretary of State to King James, and Mr. Aſhton private Secretary to the Queen, were indicted for this treaſon; and it was ſpecially laid in the indictment, that they were going to parts beyond the ſeas, for the purpoſe of procuring the depoſition of the king, and of reſtoring the late king through a French invaſion; the direct conſequence of which would unqueſtionably have been, not merely the depoſition of King William; but if James had ſucceeded, the former muſt have been attainted and executed as a traitor.

Now, with reſpect to this charge, if you are to admit a conſtruction of this kind, you are at leaſt to ſee that this conſtruction is made out by the moſt plain, manifeſt and incontrovertible proof—it was ſo made out in the caſe of Lord Preſton and Mr. Aſhton; and it is not for me to ſtand up in this Court to object either to the verdict of the Jury in that caſe, or to the opinions of ſuch Judges as my Lord Holt, whom one of the Judges upon this Bench yeſterday ſo highly and ſo juſtly praiſed—a man in the praiſes of whom I moſt heartily concur; for I am ſure the fonder any man is of the liberties of his country, the more veneration he will have for the character of that great and conſtitutional Judge. But what was the conduct of my Lord Holt upon that occaſion? He not only laid down the law, with the reſtriction which I have ſtated, but in arguing upon each particular caſe, he required that it ſhould be made out that there was in the parties concerned privity and common deſign; and unleſs that had been directly, plainly, and clearly proved, the Jury, upon his charge, never could have brought in a verdict of guilty.

But with reſpect to the general conſpiracy which is charged in this indictment, and the facts as applied to it, I ſhall have little occaſion, as I have already ſtated, to go into the evidence which affects the priſoners in general; for that has been very ably done, and will be again done with equal zeal and with equal ability, by the learned Counſel who is to follow me——I ſhall only ſay, that you will require very plain and certain proof that this paper was found in the great coat pocket of

Mr. O'Coigly; that it was concealed in that great coat, and put there by the priſoner O'Coigly himſelf; and that it was impoſſible, in the nature of things, that, after the priſoners were arreſted, *that paper could have been put there by others*—I do not ſay whether the thing is probable or likely; but I do ſay this, that if there is a poſſible ſuppoſition that ſuch a thing could have been eaſily done in the ſhifting of hands, and in the different places in which they were, and from the circumſtance of its being found in a public room, at a public Inn—If, I ſay, Gentlemen, from all theſe circumſtances, there is a reaſonable ſuppoſition, that ſuch a paper *might* have been inſerted into the pocket of this coat by others, you will heſitate, I am ſure, before, upon ſuch evidence as you have heard, you will pronounce againſt any one of the priſoners a verdict of guilty.—I ſhall remark very little upon the improbability of any man carrying a paper of this nature, the abſurdity of which has been ſo well commented upon by my learned friend.

Gentlemen, I have only further to obſerve to you, that, in all the caſes which I have read, in which a treaſonable correſpondence with the enemy was charged, it has conſtantly been ſet up in proof, that ſuch paper was in the hand-writing of one of the perſons accuſed; and why? becauſe if it is proved to be in the hand-writing of one of them, then there is an end of every idea that any other perſon might have fabricated it, and put it in the place where it was found, when the priſoners were taken into cuſtody.

If this paper was in the hand-writing of one of the priſoners, and that hand-writing was made clear to you, not in the manner in which ſome papers have been proved in this caſe—and of which you will hear more when we bring our evidence. If it was clearly made out to be the hand-writing of one of the priſoners, then I do not ſee how, upon any principle of law or juſtice, if you were convinced he was going into France, that this paper was made and prepared as ſtated in the language of the indictment, and put and concealed there for the purpoſe of being conveyed to the enemy, I do not ſee how you could acquit yourſelves upon your oaths, if againſt ſuch priſoner you were to bring in a verdict other than that of guilty.

Gentle-

Gentlemen, I ſhall not detain you longer upon the general charge; I ſhall only ſtate what particularly relates to the priſoner Allen—I find but one charge through the whole of the evidence which is attempted to be made out, and which was laſt night produced againſt Allen—it was, that he paſſed as O'Coigly's ſervant, and from that circumſtance the proſecutor in this cauſe wiſhes to infer, and to convince you, Gentlemen of the Jury, that my client Allen was privy to the deſign upon which O'Coigly is ſtated to have gone, that he knew of this paper, knew of its contents, and approved of it—You will obſerve by the very few points in the courſe of the evidence which have related to Allen, particularly by the evidence of Mrs. Smith, that my Client was a poor and a diſtreſſed man; that even in the room where he lodged with two others of his countrymen, who were, like himſelf, driven from their country, there was but one bed, and that they paid together, for that room, ſeven ſhillings and ſixpence per week!!

Gentlemen, the priſoner Allen fled from Ireland, as he did not conceive himſelf, for the ſame reaſon as the other priſoners, to be ſafe in that country; and he wiſhed alſo to get out of England, from which it was poſſible for them to ſend him back to his own country; he therefore took advantage of Mr. O'Coigly's determination to go to France—there is no doubt he accompanied Mr. O'Coigly as his ſervant; and I will aſk you, Gentlemen, whether a perſon of the habits and the education of my client, a poor, ignorant, uneducated man, could be found in a ſituation which was more natural or ſuitable to his circumſtances than as Mr. O'Coigly's ſervant; for if he had not paſſed as his ſervant, how ſhould he have gone at all? Do you think Mr. O'Connor would have admitted Allen into his room—that he would have converſed with him—that he would have aſſociated with him—that he would have ſought or liked the company of Allen. Unqueſtionably not. I can conceive, then, nothing more natural than that Allen ſhould go as the ſervant of Mr. O'Coigly—And do you ſuppoſe that Mr. O'Coigly would tell to a perſon whom he took as his ſervant, and who was in a low ſituation

of life, or that Mr. O'Conner, ſuppoſing any caſe had been made out againſt either of theſe two priſoners, which I contend is not done, ſuppoſing that they had any deſign of going to France, for the purpoſe ſtated in the indictment, is it likely that they would have communicated this paper, or their deſign, to Allen, as if he could be of any ſervice to them. No, they could have but one reaſon for taking Allen with them—he was a diſtreſſed countryman, whom they were willing to protect, and put out of the reach of danger. I will not detain you one moment upon this; I am ſure you muſt ſee the ſituation in which he ſtood as ſervant, was the only ſituation in which he could be received into their company, and that which was natural for him in his ſituation of life.

I muſt again allude, Gentlemen, to the caſe of Lord Preſton and Mr. Aſhton, becauſe it bears a ſtrong ſimilarity in ſome points to this caſe—Lord Preſton was, as is ſtated, Secretary of State to King James, he had entered deeply into the deſigns which that prince had formed, previous to his leaving this country, for the ſubverſion of its liberties—he was attached to his maſter, and wiſhed to reſtore him to that authority which he had loſt. Upon his trial they could have brought thouſands of inſtances in which he had aſſiſted the late king in the attempts which he had made upon the liberties of England; but in that proſecution, the counſel for the crown did not think that they could in any inſtance, bring the circumſtances of a man's whole life, as a proof of the intention with which he committed a ſpecific act, charged to be treaſon; becauſe if a man commits treaſon, and it can be proved at all, it can be proved in the courſe of a ſhort evidence—the proof of High Treaſon, as it was well remarked, muſt lie 'in the palm of a man's hand.' If a trial for High Treaſon, goes on to the length of five, ſix, ſeven, or eight days, which the memorable trials of 1794 did, I myſelf, if I was a Juryman, and was not able to comprehend the maſs of evidence, and to free my mind from that confuſion which it had brought upon it, I ſhould at once bring in a verdict of not guilty, becauſe I ſhould conceive if there was Treaſon, it could be proved in a ſhorter manner—but to return to the caſe of Lord Preſton, ſome of

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the moſt treaſonable papers were found to be in the hand-writing of his Lordſhip, ſuch as a memorandum of hints, which he was to uſe when he got to the Court of St. Germain's; there was a liſt of ſeveral ſhips; in what condition they were; of the mode of attacking the country; in what manner the French fleet was to fight; and the declaration of King James, to be publiſhed when he came to this country—beſides theſe papers, there were many others which were rank treaſon—there was the reſult of a conference for bringing in the Pretender; there were the heads of a public declaration, and a variety of papers needleſs for me to ſtate—but how were theſe papers found? it is extremely material that you ſhould attend to this caſe, for I am ſure your verdict will be in a great degree guided by it.

Lord Preſton and Mr. Aſhton, were diſcovered going down the river in a ſmack, which had actually ſet ſail for France: when the perſon ſent to apprehend them, entered the veſſel, he found, concealed under the hatches, Lord Preſton, Mr. Aſhton, Mr. Elliot, and Lord Preſton's ſervant: he pulled them from the place where they were hid, and when he had them upon deck, he had made no diſcovery; but Mr. Aſhton went down again under the hatches, where he had been before, and put the bundle of treaſonable papers into his boſom, Mr. Aſhon returned upon deck, and one of the ſailors, fortunately for the diſcovery of the plot, mentioned to Captain Billop, who apprehended them, that Mr. Aſhton had put ſomething into his boſom; the Captain aſked him what he had in his boſom, he ſaid his handkerchief, and pulled it out, but Captain Billop put his hand into his boſom, and pulled out the bundle of papers—and how were they made up? They were tied together with a piece of lead affixed to them, for the purpoſe of ſinking, in caſe they were diſcovered—now this circumſtance alone was ſufficient, in my opinion, to have juſtified the Jury, at leaſt, in bringing in Aſhton guilty, who had them in his boſom, and alſo Lord Preſton, in whoſe hand writing ſome of the papers were—beſides, their whole conduct ſhewed a conſciouſneſs of guilt. As they came up the river in a boat, they repeatedly aſked Captain Billop to diſ-

poſe of this packet, Mr. Elliot particularly, who, although concerned in this, was not tried, and all hiſtorians agree that he was not, becauſe there was no ſufficient poſitive proof againſt him; this gentleman wiſhed Captain Billop to take ſome indifferent papers, ſome letters of Lord Preſton's, which he had found in his pocket, and to ſay, that they were the papers he had found. When they found they could not prevail upon him by entreaty, they uſed threats and menaces, in order to induce him to comply with what they propoſed; it is impoſſible to ſtate any caſe ſtronger than that---but how is it applicable to this caſe? I mean the particular caſe of my client---it is applicable in this reſpect---that Lord Holt, whom I have mentioned, that Lord Chief Juſtice Pollexfen, and Lord Chief Baron Ward, you find in the opinion of theſe three Judges, who tried the cauſe, that privity was abſolutely neceſſary to be proved, and I ſhall read one or two extracts of the opinions which the Judges gave, which will be a perfect proof to your minds, that unleſs there can be made out a privity in the deſign with which Mr. O'Coigly was going to France, ſuppoſing this, his deſign, to have been made out, that ſtill you cannot convict any other of the priſoners at the bar.

On Lord Preſton ſaying that he was not the bearer of the paper, that therefore they could not affect him: Lord Chief Juſtice Pollexfen ſays, 'Here are three papers, that by three 'ſeveral witneſſes acquainted with my Lord's hand-writing, 'are teſtified, as they believe, to be his hand-writing; if ſo, 'then there is an end of all, for therein is a horrid deal of 'treaſon contained: if thoſe inſtructions, thoſe memorandums, 'thoſe heads that were written down, were my Lord's, and 'he did intend to go with theſe in a voyage towards France, 'that will be ſufficient of itſelf, if there were nothing elſe in 'the cauſe, to maintain this indictment.' But he ſays further, why they ought to condemn Lord Preſton—'But, Gen'tlemen, you have in the reſt of the papers that were taken, 'a great character of the bearer; that the bearer had done 'great things:' which was the caſe with reſpect to Lord Preſton. 'That the bearer could inform them fully of every

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'thing, and there ſhould be full and entire confidence put in 'the bearer,' and a great many ſuch phraſes. 'But,' ſays my Lord, 'I was not the bearer, it was Mr. Aſhton, the papers 'were found about him; it does not appear directly who the 'bearer was, they were not found about me.'

'Now,' continues he, 'pray let us look a little how this 'evidence ſtands: pray where was this bundle found? Even 'upon the gravel where my Lord Preſton and Mr. Aſhton 'lay; there was it found, and my Lord's own ſeal with it: 'that is a circumſtance which I forgot to mention, that upon 'the ballaſt, cloſe to the papers, were found Lord Preſton's 'ſeal, which he had uſed when he was Secretary of State to 'King James. Beſides, afterwards, when he is taken, and 'the letters taken with him in the ſame company, you hear 'what endeavours there were to ſuppreſs the truth, even by 'my Lord's deſiring to have the packet diſpoſed of.'

In the caſe of Aſhton, in whoſe hand-writing none of the papers were found, but the papers were found upon him, in the hand-writing of another priſoner, with all the ſuſpicious circumſtances which I have ſtated to you on his trial, when he ſaid that there were none in his hand-writing; that he was not the bearer, though he put them in his boſom, they lying mixed with my Lord's ſeal, though not his, in that caſe Lord Holt ſays, 'Your being concerned, and importunately endea-'vouring to have them thrown overboard; the hiring the 'veſſel to go with thoſe treaſonable papers to an enemy's 'country, and the papers found about you, is fact proved, and 'is left to the Gentlemen of the Jury to conſider of.'

Now, Gentlemen, it is impoſſible that any caſe could have been more clearly made out than this caſe was, againſt Lord Preſton and Mr. Aſhton; but Mr. Elliot was alſo arraigned along with the priſoners, and a great part of the evidence which went to affect Lord Preſton and Mr. Athton, unqueſtionably went to affect Mr. Elliot; but the proof did not go to this extent, to ſhew that Mr. Elliot was an active party in this conſpiracy; it did not ſhew that he was either the contriver of it, or that he was employed in carrying it on; it only ſhewed that he had a general notion that they were going under ſuſpicious circumſtances; that he

had

had a general notion that there might be danger, but it was not ſhewn that he had any privity of the paper, and therefore, according to the unanimous teſtimony of all the hiſtorians of the time, Mr. Elliot was not brought to trial, becauſe there was no poſitive proof againſt him.

Gentlemen, I will not detain you any longer upon this part of the ſubject; and indeed I have little more to ſay to you.

My client, along with the other priſoners at the bar, fled from Ireland. It is not neceſſary for me to ſtate to you what the ſituation of that country is. It is ſufficient to be ſuſpected, to be impriſoned; and it would be happy for them that it was ſufficient that they were impriſoned, to be tried; but this is not the caſe: they are impriſoned without a cauſe aſſigned, as in the caſe of one of the gentlemen at the bar, who was kept in cloſe cuſtody for ſix months, upon a charge of High Treaſon; he was allowed afterwards to go out upon bail, and bail ought not to have been received, if a charge of High Treaſon could have been made out againſt him: and ſtill more, in the caſe of Mr. Roger O'Connor, he was impriſoned for ſix months in a dungeon in the gaol of Cork; he was ſome weeks ago acquitted, and no evidence whatever was produced againſt him. The witneſſes were called upon the part of the Crown, but none appeared. Mr. Roger O'Connor, upon the wings of brotherly affection, flew to this country, to comfort and aſſiſt his brother in the hour of peril. What was the conſequence? To ſhew you that it is in the power of the government of this country, or at leaſt, that that power is aſſumed, to ſend perſons out of this country to Ireland, this unfortunate gentleman, who had been but one day in London, who had travelled ſeven or eight hundred miles, without ſleep, and almoſt without refreſhment, when he came here he was arreſted by a warrant of the Secretary of State, and ſent back to Ireland; his evidence was material upon this cauſe, and the Duke of Portland finding that it was ſo, ſent a warrant that he might be brought back.

Gentlemen, I firſt propoſe to ſhew you what the ſituation of Ireland is: and, ſecondly, that there is a power, either real or aſſumed, to ſend any perſon to Ireland, to be tried there, or to be impriſoned, if government don't think proper to bring him

him to a trial; but with reſpect to trial, the priſoners had an awful warning in that which lately took place, and of which you may have all heard, I am ſure you have, of the fate of the unfortunate Mr. Orr——

Mr. Attorney General. Does your Lordſhip think that the juſtice of Ireland is to be traduced in this manner?

Mr. Ferguſſon. I am ſtating what I believe to be material to the defence of my client, to ſhew that he would not have left Ireland, if in that country, from the ſituation in which it is, I impute no blame to government, I ſtate the ſituation of the country to be ſuch, that a perſon who is there, and who is ſuſpected of any crime, may be impriſoned without any cauſe being alledged. I further ſtate the circumſtances of a late trial, which cannot be objected to, becauſe it ſhews the fate to which priſoners may be doomed if ſent there. If your Lordſhip thinks I ought not to proceed, I ſubmit.

Mr. Juſtice Buller. You are ſtating the particulars of a trial which took place in Ireland, whether the trial was right or wrong, we cannot enquire under what circumſtances an indictment was preferred, and by what means it was tried.

Mr. Ferguſſon. I meant to ſtate, that ſuch was the ſituation of that country, that jury-men, according to an affidavit which themſelves made——

Mr. Juſtice Buller. That cannot be admitted.

Mr. Ferguſſon. Gentlemen, I ſtand corrected by his Lordſhip, who has prevented my going into that which my inexperience in caſes of this kind made me think I had a right to do, which I conceived to be material to the defence of my client, but I certainly ſubmit; however, there is no doubt that the ſituation of Ireland is ſuch, without referring at all to any proceedings of the courts of juſtice, that the conflict of parties in that country is ſuch, that any man who is active againſt the adminiſtration of that country, has great reaſon to fear for his life. I admit that on the other ſide it is the ſame; that, in fact, any perſon who has been forward, either in one party or another, is not now ſafe in that country; at leaſt, if I were an Iriſhman, in that predicament, I ſhould endeavour to leave it as ſoon as poſſible. You know that in Ireland, even ſuppoſing a priſoner

is

is not brought to his trial, what the ſituation of a man who is merely ſuſpected——

Mr. Juſtice Buller. You are going too far; we cannot enquire into the law of Ireland.

Mr. Ferguſſon. Nothing can be farther from my intention than to impute any blame to any court of juſtice in Ireland. In the caſe of Mr. Orr I meant to ſtate a fact which happened after the trial, and which no ways related to the Bench.

Mr. Juſtice Buller. We cannot enquire into that.

Mr. Ferguſſon. Gentlemen, a material part of the defence of my client is, as I conceive, that he left a country where he could not remain with ſafety; I attempted to ſhew that he had a motive for leaving that country; I was endeavouring to ſhew to you that he had a motive for leaving this country alſo, although that certainly is unneceſſary, becauſe it muſt appear to you in fact, that the Counſel for the Crown have made out no caſe whatever againſt him.

Gentlemen I have done; I hope and truſt, and am confident that no improper attempts which have been made, will influence you in your verdict. I am ſure I ſhould be inſulting you if I were to think that any one of you did not feel equal horror with myſelf; that his blood did not run cold, when he heard thoſe monſtrous doctrines which were promulgated in a letter addreſſed by a perſon of the name of Young reſpecting this trial; ——that thoſe attempts have been made——

Mr. Juſtice Lawrence. It is no part of the evidence in this cauſe.

Mr. Juſtice Buller. Nor can you produce it as evidence.

Mr. Ferguſſon. Gentlemen, it is impoſſible for you I truſt to return a verdict contrary to evidence, but I will aſk you to guard againſt a prejudice, an unwilling and an involuntary prejudice, which perhaps may enter into the minds of men, anxious as you naturally are, for the independence of your country. The priſoners are accuſed of a great and a horrid crime, they are accuſed of that treaſon which is the worſt and the moſt deteſtable, as it is that which goes not only to the depoſition of the King, but the ſubverſion of the whole conſtitution and laws of your country, and that by a *foreign force!* the beſt of minds

minds may find themſelves a little biaſſed againſt any priſoners put upon their defence upon a charge like this. But do not, I beſeech you, Gentlemen, allow *your* minds to receive impreſſions of this nature. Take warning from what happened in a memorable period of the hiſtory of your country; you cannot have forgotten in the courſe of the laſt century, in the reign of Charles the Second, that monſtrous fiction the Popiſh Plot; Juries, unfortunately there, as it has been always admitted, brought in a verdict, which nobody has hitherto been able to juſtify. I am ſorry alſo to ſay, that perhaps the beſt men of thoſe times were to a certain degree concerned, at leaſt, in endeavouring to raiſe a belief that ſuch a plot exiſted; and I fear it cannot be denied, that the clamour raiſed by the popular leaders at that time, had too powerful and too fatal an influence upon the Juries who tried the conſpirators in that pretended plot. That there was a plan in thoſe days to bring in popery and arbitrary power is certain, and in the zeal which men felt for the preſervation of their liberties, they ſaw, in every idle rumour a plot, and in every accuſed perſon a conſpirator.—The conſequence was, that the blood of the innocent was ſhed, and verdicts were given which outraged every principle of humanity and juſtice. The times in which we live, bear in many points, too near a reſemblance to thoſe to which I have alluded. May they never reſemble them in thoſe dreadful judicial proceedings. If you ſhould in this caſe return a verdict of guilty, my mind forbodes a train of diſmal and melancholy events which await my country:—You will not be the firſt to open the ſcene of blood.

MR.

MR. SCOTT.

Gentlemen of the Jury,

I am of Counſel in this cauſe for that excellent and innocent young man, Jeremiah Leary; I am really at a loſs to know, from the evidence which I have heard, and which you have heard alſo, what the charge is againſt that boy; he ſeems to me to have been moſt wickedly and wantonly thruſt into this indictment. Gentlemen, Leary is the ſervant of Mr. O'Connor, and what evidence then can he (a poor ſervant) call to prove, that which muſt be manifeſt to the whole world, his innocence. Gentlemen, it is impoſſible that he ſhould have the opportunity of ſubpœnaing witneſſes or calling any evidence at all. What then, is he to have no defence? Is he to ſink under the weight of this accuſation? No, Gentlemen, he ſhall not fall a victim to the cruelty and inhumanity of this charge; and I am juſtified in calling this a cruel charge; becauſe, in the whole hiſtory of the legal proceedings of this country, there never was an inſtance of a ſervant, under ſuch circumſtances, being put upon a trial for his life, for High Treaſon. Gentlemen, I will, however, call evidence in this lad's defence, I will call ſuch evidence as ſhall make his proſecutors bluſh; I do not mean the learned Attorney, or any of the learned gentlemen by whom he is profeſſionally aſſiſted, but I mean the real authors of this indictment. Gentlemen, I call this very indictment, that evidence, which to their everlaſting diſgrace they have brought againſt him; and what does it prove? Look you, gentlemen and ſee what it proves—Why it proves that he was the ſervant of Mr. O'Connor; that he did as his maſter bid him; he packed up his maſter's things—he went with his maſter—and, in ſhort, obeyed his maſter's orders. He knew nothing, and could therefore tell nothing. Good God! Gentlemen, what is his crime? That he is a ſervant; and for this is that boy now ſtanding at your bar, trembling for his life.

Gentlemen, this is my caſe; it is very plain and very ſhort; I think I ſee how you feel it, and I will preſs it no farther upon

upon you; for to make a long ſpeech would only be taking up your time, and giving an importance to this caſe which it does not deſerve. The defence of the reſt I cannot enter into, however I may feel diſpoſed to do it, becauſe that has been wiſely entruſted to my learned friends, who are more able, more learned, and more experienced than myſelf, one of whom has done himſelf immortal honour already, and I am ſure I know my friend Mr. Dallas too well, not to know that it is out of his power to do otherwiſe. All that I can ſay to you Gentlemen, is this, that if, upon the evidence which the Crown has brought againſt him, this poor lad ſhould be convicted (which I am ſure is impoſſible) to my lateſt hour I ſhall never ceaſe to think, that it was the crueleſt murder ever committed in England.

EVIDENCE FOR THE PRISONERS.

Jeremiah Haſſet. (Sworn.)

Examined by Mr. Dallas.

Q. What are you?

A. Keeper of the Round Tower of the Caſtle at Dublin.

Q. Were you keeper of the Tower in the month of July laſt?

A. Yes.

Q. Do you remember Mr. Arthur O'Connor, now at the bar, being confined there?

A. I do.

Q. Was he confined in cloſe cuſtody under your charge?

A. He was.

Q. Was he ſuffered to ſee any friend?

A. Yes—Sir Lawrence Parſons and Counſellor O'Brady.

Q. How ſoon after his confinement did that happen?

A. Shortly after his confinement.

Q. But, except them, were any other friends ſuffered to viſit him?

A. No, no friends at all; Mr. Steventon, conſtable of the Caſtle, or Mr. Aſten Cooper, had permiſſion to come.

Q. But with the exception of the perſons you have mentioned, no other friends were permitted to viſit him?

A. No.

Q. Do you recollect, during the time of his confinement, any ſhot being fired towards that part of the gaol in which he was confined?

A. I do.

Q. When was that?

A. About the latter end of June.

Q. Where were you when this ſhot was fired?

A. Leaning over the parapet wall, at the top of the tower.

Q. Where was Mr. O'Connor's apartment?

A. Two flights under me.

Q. By whom was that ſhot fired?

A. By two Highland Fencibles.

Q. Were the Highland Fencibles the ſoldiers who were then on guard?

A. They

A. They were.

Q. At what hour of the day was this?

A. Between ſeven and eight o'clock in the evening.

Q. Had you heard theſe ſoldiers challenge any perſon before this ſhot was fired?

A. No.

Q. Were there one or two ſhots fired?

A. Two only, from the two different centinels.

Q. Were they fired nearly at the ſame time?

A. Yes, they were; the firſt man that fired turned about to the ſecond man, and deſired him to fire, and he did fire.

Q. After this did you give any caution to Mr. O'Connor about appearing or not appearing at the window?

A. I did not, but he took it as a caution himſelf, and he did not wiſh to go to the window.

Mr. Garrow. As this is no evidence in this cauſe, I will not aſk the witneſs any queſtions.

——— *Stewart, Eſq.* (Sworn.)

Examined by Mr. Plumer.

Q. Pleaſe to look at this letter—Do you know whoſe hand writing it is?

A. I wrote this letter.

Mr. Plumer. My Lord, that is the letter which Mr. Lane ſpoke to, and ſaid was Mr. O'Connor's hand-writing. Was Mr. O'Connor privy to or knew any thing about that letter?

A. I do not know.

Mr. Juſtice Buller. You muſt know whether he was privy to it if you wrote it.

A. He certainly was not.

Mr. Plumer. Had he any knowledge of the letter at the time you wrote it?

A. Certainly not.

Q. I believe you have known one of the gentlemen at the bar, Mr. O'Coigly.

A. Yes, I have known him about three years.

Q. Where did he live in Ireland?

A. In Dundalk, in the county of Louth.

Q. Do you know any circumſtances that occaſioned his leaving that country?

A. I heard from his father ———

Q. Do you know of there being a party in the place where he was, that were adverſe to him and his family?

A. Yes, there were ſocieties of Orange men, originally peep of day men; his father's houſe was racked I underſtand.

Q. Did you ſee that it was?

A. I did not, but it was ſtated, with many other petitions that came before the Grand Jury, that it was.

Q. I believe you are a magiſtrate of the county?

A. I am.

Q. You did not perſonally ſee what was actually done by theſe people in that neighbourhood?

A. I did not; I ſaw a great deal of racking.

Q. You know there were in fact, great outrages committed by thoſe perſons in the neighbourhood where he lived?

A. Yes.

Q. During the time you have known Mr. O'Coigly what has been his general character and conduct?

A. I thought him a good moral character, as far as I knew him perſonally, and I never heard any thing to the contrary.

Q. At what time are you ſpeaking of theſe outrages being committed by the Orange party—how lately?

A. There have been perſecutions of that kind for ten years paſt.

Q. Down to what time?

A. It was going on when I left that country, about nine or ten months ago.

———*Stewart, Eſq.*

Croſs-Examined by Mr. Garrow.

Q. Perhaps you know of ſome other ſocieties of perſons in Ireland beſides peep of day men,

A. Yes.

Q. Do you happen to know any perſons by the deſcription of United Iriſhmen.

A. I have heard a great deal of them.

Q. Do

Q. Do you know any perſons who are members of that ſociety?

A. I know a great number who have told me they were United Iriſhmen.

Q. I am induced by the manner in which you anſwered my friend's queſtions, as to the knowledge of this letter, to aſk you on what occaſion you wrote it?

A. Mr. O'Coigly called upon me in London, and told me he was in great diſtreſs; he told me he was under the neceſſity of changing his name—I had been under obligations to him of a very particular nature; he ſaid he was in diſtreſs, and aſked me if I could accommodate him with ſome money; I told him it was not convenient to me, I had ſome Iriſh bills about me but could get little money for them here; that I expected remittances ſoon, and would ſend him ſome if it was convenient; and I did ſend him ſome.

Q. That was the whole correſpondence that you had with Mr. O'Coigly, in London; he aſked you for a loan, which you with ſome inconvenience gave him?

A. Yes.

Mr. Juſtice Buller. Do you know any of the other perſons at the bar?

A. I know Mr. O'Connor.

Mr. Garrow. You do not know any gentleman of the name of Binns?

A. I do not know his perſon.

Q. You do not know any perſon of the name of John Binns?

A. No.

Q. Nor ever correſponded with any perſon of that name?

A. No.

Q. You would have been ſurprized to have received a letter from any perſon of that name?

A. I ſhould.

Q. It was in London that Mr. O'Coigly called upon you; you never ſaw him any where elſe in this country, I take for granted?

A. No.

Q. Had you been upon any intimate footing with Mr. O'Coigly?

A. I was.

Q. Had he dined with you at any time?

A. Yes; he dined with me in London the day he came; I can hardly ſay he dined, he did not ſtay above half an hour.

Q. What name did he paſs by at your houſe?

A. Johnſon, or Jones.

Q. You addreſſed the letter in that name?

A. I addreſſed the letter to that name.

Q. Where did he repreſent his quarters to be?

A. He told me in Plough Court.

Q. And there you ſent the letter to him?

A. Yes.

Q. As you ſeem to be pretty accurately acquainted with the ſtate of parties in Ireland, you can explain that paper, (*ſhewing the witneſs the following printed paper found in the box mentioned in the evidence of John Jones. Vide page* 259.)

"CERTIFICATE.

"London Society of United Iriſhmen. No. 1.

"I hereby certify, that has been duly "elected, and having taken the Teſt provided in the Conſtitu- "tion, has been admitted a Member of this Society.

"W. HUBARD, Secretary."

(Seal.)

"No. 9."

A. I never ſaw ſuch a thing as that.

Q. As you knew Mr. O'Coigly was a prieſt, how did you addreſs him in your letter?

A. He ſaid he went by the name of Captain.

Q. How did you addreſs him?

A. It is very likely that I addreſſed him as Captain.

Q. Or, my dear Captain?

A. Yes.

Q. Do you know how long this was before Mr. O'Coigly left London?

A. I believe it was about ſix or ſeven days.

Q. He repreſented himſelf to you to be in diſtreſſed circumſtances?

A. Yes;

A. Yes; he aſked me to accommodate him with twenty pound, or ſome ſuch ſum, till he could get remittances from Ireland.

Q. When did you ſee O'Coigly laſt before you ſaw him in London?

A. I believe the laſt place I ſaw him in was in the county of Down, near the town of Downpatrick; I overtook him on the road, as I was riding from the aſſizes.

Q. Was that the Summer aſſizes at Kildare?

A. No, the county of Down.

Q. How long is it ago?

A. About a year ago.

Q. Did you know from Mr. O'Coigly that he had been upon the Continent?

A. No, I never heard that he had.

The Right Hon. the Earl of Moira. (Sworn.)

Examined by Mr. Dallas.

Q. Has your Lordſhip any knowledge of Mr. O'Connor, now at the bar?

A. But very little.

Q. Has your Lordſhip ever had occaſion to converſe with him upon political ſubjects?

A. I think only once.

Q. From the courſe of that converſation, did he appear to your Lordſhip to be well or ill affected towards this country?

Mr. Solicitor General. I ſubmit to the Court, whether evidence as to general converſations by a priſoner, can be received?

Mr. Juſtice Buller. They cannot aſk to particular facts.—Lord Moira never ſaw him but once, therefore he cannot ſpeak as to his general converſations. You may aſk as to general demeanor, as to his general conduct in life.

Mr. Dallas. I take it to be clear that it is competent to any witneſs to form his general opinion as to the loyalty of any ſubject of this country, upon converſations he has held with him from time to time. I ſubmit that the objection is to the effect of the evidence, not its competency. My queſtion to the noble Earl is, whether, in the courſe of converſations he had with

Mr. O'Connor, he had reaſon to believe him to be a loyal ſubject or otherwiſe?

Mr. Juſtice Heath. You may aſk Lord Moira generally whether he thinks Mr. O'Connor a loyal ſubject.

Mr. Dallas. Does your Lordſhip believe, from Mr. O'Connor's general character, that he is a loyal ſubject?

A. I do not feel myſelf at all competent to ſpeak to Mr. O'Connor's general character, from the little acquaintance I have had with him, but from a particular occaſion ——

Mr. Garrow. His Lordſhip cannot ſtate any particular fact.

Mr. Plumer. This ſubject was very fully conſidered on Hardy's trial. Every caſe in the State Trials was there collected together from beginning to end, and there are a great many caſes in which the learned Judges themſelves not only put the queſtions but called upon the Counſel for the priſoners to aſk that queſtion, and to prove it, if they could, by any perſons who would ſtate that they had heard the priſoner make uſe of any declarations expreſſive of his loyalty. I admit a ſingle inſtance is open to this objection.—A man may, for the purpoſe of repreſenting himſelf to be what he is not, hold a converſation, with a view to its being given in evidence in his favour; but that goes to the credit, not to the competency.

Mr. Juſtice Buller. Suppoſe a man were indicted for murder, and he could bring a perſon to prove a particular act of humanity, you could not conceive that would be evidence.

Mr. Dallas. Does your Lordſhip know a perſon of the name of Dutton, a Quarter-maſter in the Artillery?

A. I have heard of him, I do not know him.

Q. Does your Lordſhip know what is his general character?

Mr. Garrow. His Lordſhip ſays that all he knows of Dutton's character is from hearſay.

Mr. Dallas. I apprehend, that what Mr. Garrow ſtates as a diſqualification, upon the part of the noble Earl, to give ſuch evidence, is by no means ſo, when it comes to be accurately ſtated.

Mr. Garrow. The conſtant practice, where character has been enquired into, has been to put the queſtion thus:—Are

you

you acquainted with ſuch a perſon?—From your acquaintance with him, what is his general character?—But I never heard that when a witneſs ſays, I do not know the perſon, but have heard of him, that then it was aſked, what have you heard of his reputation.

Mr. Dallas. I admit that hearſay would not be evidence of any particular fact. But Mr. Garrow ſeems to have forgotten, that not long ſince he himſelf ſtated that character was not fact, but a concluſion to be drawn from a great number of facts, which might have happened in a very long or a ſhort life. Character, in my eſtimation of it, is no more than the reputation which a man generally bears among thoſe to whom he is known; when, therefore, a witneſs is aſked with reſpect to the character of any particular perſon, the very queſtion ſhews that it is not confined to the fact, but that it goes beyond it; becauſe he is not aſked, from his knowledge of the perſon, would he believe him, but whether, from his knowledge of the character of that perſon, he would believe him. If character is therefore no more than the general opinion which is entertained of a perſon, by thoſe to whom he is well known, nothing can be more clear than that it is the general eſtimation in which he ſtands—that general eſtimation to be collected from the courſe of his general converſation; I take it to be perfectly clear, that it is no objection in this caſe to an account of character, to ſay that it amounts only to hearſay; becauſe, when one man gives the character of another, it muſt be that which he has heard from others, for it extends beyond his own knowledge, and the queſtion is generally put to an extent beyond his knowledge. Upon theſe grounds, I ſubmit that I am entitled to aſk the noble Earl what is the general character which this man bears?

Mr. Juſtice Buller. Did you ever hear that aſked when the witneſs ſaid he knew nothing about the perſon?

Mr. Juſtice Heath. It muſt be founded in perſonal knowledge.

Mr. Juſtice Buller. I muſt tell the Jury, that the noble Lord ſays this witneſs is not to be believed upon his oath, but he knows nothing of him. Then they have a right, on the other ſide, to aſk to particular facts; then my Lord Moira give us

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an inſtance? Suppoſe his Lordſhip mentions his appearance at ſome Court of Juſtice in Ireland; that the evidence he gave there was not believed—the next queſtion is, were you preſent, did you hear the trial, my Lord?—No. Do you know that he ſwore it? No.

Mr. Juſtice Lawrence. The queſtion is always put in this way—Do you know the witneſs? Yes. Then, What do you know of him?

Mr. Dallas. It is my duty to acquieſce; I have ſubmitted my reaſons.

Cornelius Kettle. (Sworn.)

Examined by Mr. Plumer.

Mr. Plumer. I call this witneſs to ſpeak as to a perſon of the name of Thomſett.

Q. Do you know Henry Thomſett?

A. Yes.

Q. Do you remember ſeeing him after the priſoners were apprehended?

A. Yes.

Q. Did you hear him ſay any thing reſpecting the priſoners?

A. Yes; I heard him ſay he conveyed them from Whitſtable to Margate, and he interrogated them by the way as to their going out of the country.

Q. After that converſation, what did he ſay reſpecting himſelf?

Mr. Attorney General. What elſe did he ſay?

A. That they made an agreement with him reſpecting the price to carry them to Margate, and the men ſatisfied him very handſomely, and on his return back he ſaid he met a man that he called North; and this man was in purſuit of theſe men, according to his account, and he charged him (Thomſett) with being the perſon that carried theſe men, and he declared he knew nothing of them.

Mr. Plumer. Did Thomſett ſay any thing about himſelf, or what he ſhould get by it?

A. In a converſation after that, he told me it was a good job for him; he would not take a hundred pound for his job.

Q. Are you ſure you heard him ſay that?

A. Yes,

A. Yes, certainly I did; it gave me an idea immediately that intereſt was his object.

Cornelius Kettle,

Croſs-Examined by Mr. Garrow.

Q. What are you?

A. A Clock and Watchmaker.

Q. Where do you live?

A. At Offham, in this county, where Thomſett lives.

Q. When did this converſation take place, and where?

A. It took place at Offham, I believe about a week or ſomewhere thereabouts after the priſoners were apprehended.

Q. Where was it, at the public houſe, or where?

A. I was coming up the ſtreet, he aſked me to go and drink with him, and began telling me the circumſtances of the ſtory.

Q. What more did he tell you then?

A. That he poſitively denied to North that he had ſeen any ſuch men, or carried them; that North inſiſted he muſt be the perſon, as he had had information he was the man. He ſaid, perhaps it may be my brother; North inſiſted he muſt be the man; he denied it; that North ſaid, Theſe are dangerous men, or ſomething, I do not recollect juſt the expreſſion; and ſaid he was in purſuit after them to take them; that he ſaid, is there any reward or premium for taking them? He ſaid, yes there was; he ſaid he had conveyed ſome men through the country, he ſuppoſed they were half way to France by that time, but if he would let him have the bounty or premium, he might tell him where he could have them; the wind might blow them back; that North ſaid he would; then he ſaid, Go along with me before a witneſs, and confirm this, that I ſhall have the bounty or premium, and I will endeavour to inform you where they are; and that after that, he informed the perſon where they were at Margate.

Q. And that was all?

A. Yes.

Q. This he told you, without the leaſt heſitation, ſoon after theſe perſons were apprehended?

A. Yes.

Q. Have you had ſeveral converſations with him ſince?

A. Several

A. Several times.

Q. Did he always repreſent it in the ſame way?

A. He never mentioned it particularly ſince, but other circumſtances reſpecting it; the ſecond time I ſaw him after that, he entered into diſcourſe about it, it was the common talk of the place; he ſaid he had been to London, and there was rare living there; that good wine was a good thing in a man's belly.

Q. Did he ſay any thing more?

A. And there was a coat, he ſaid, that was introduced; he told me before, that he was one of the principal evidences againſt theſe men, and their lives depended upon his evidence chiefly, on the great coat that was ſuppoſed to belong to ſome of them.

Q. Did he mention the name of the perſon it was ſuppoſed to belong to?

A. I do not recollect that he did; I did not pay particular attention; if I had had any idea I ſhould be here, I might; this coat, he told me, contained matter of very great importance belonging to the priſoners, ſuch as a printed Letter or Addreſs to the French Directory; that this coat was produced; and he was aſked whether he knew any thing of this coat?—Why, no, he could not ſwear to the coat, he ſaid. I do not know any thing more particularly.

Q. Did he deſcribe whether it was an Engliſh or a French ſtamp upon the printed paper?

A. He deſcribed no ſtamp at all, but that he was informed this coat contained a printed letter or ſomething to the French Directory.

Q. Who was the firſt perſon that you mentioned this to?

A. I do not know.

Q. Perhaps you did not mention it to any perſon?

A. Yes, I did, I believe.

Q. Try and recollect who you firſt mentioned it to?

A. I mentioned many things he ſpoke to me, which I ſuppoſe was the inſtigation of my coming here.

Q. Who did you firſt mention it to?

A. I do not recollect; it was a public converſation.

Q. He

Q. He made no ſecret of all this?

A. I do not know that he made that public.

Mr. Juſtice Buller. What do you mean by a public converſation; was this in the alehouſe?

A. Yes.

Mr. Juſtice Buller. Was any body elſe in the room beſides?

A. Yes, but I don't know that they heard it.

Mr. Garrow. You ſaid it was a public converſation?

A. Afterwards, reſpecting other matters.

Q. Did Thomſett make any ſecret of any part of this ſtory?

A. He told it me.

Q. Did he caution you to keep it a ſecret?

A. No.

Q. When were you applied to firſt to attend here as a witneſs?

A. On Saturday laſt.

Q. Who applied to you?

A. A perſon of the name of Bonney, I believe.

Q. And not before, you are ſure?

A. No.

Q. Did he apply to you at your own houſe?

A. Yes.

Q. Where is that?

A. At Offham, as I told you before.

Q. Is that in the neighbourhood of Deal or Whitſtable?

A. Nearer Town Malling.

Q. You cannot recollect any perſon that you told this ſtory to till you told it to Mr. Bonney?

A. I do not know at preſent.

Q. Were there many perſons in the room when he held the firſt converſation?

A. No.

Q. Was it in the tap-room, or a private room?

A. In the tap-room.

Q. The landlord and his wife paſſing backwards and forwards, I ſuppoſe?

A. Yes; but it is common, when a perſon gets upon ſuch a ſub-

a ſubject, not to talk very loud—I ſuppoſe you have been in a public houſe.

Q. There was nobody elſe, as far as you heard or believe, that heard any part of it?

A. I believe not.

Q. Was the ſecond converſation in the ſame public-houſe?

A. Yes.

Q. In the tap-room?

A. Yes.

Q. Were there many people preſent?

A. There might be two or three.

Q. Was it ſaid in a low tone of voice, or publicly and openly?

A. In ſomething of a ſecret manner.

Q. So that you might hear it, and nobody elſe—nobody heard that ſecond converſation?

A. No.

Q. So there has been no converſation upon this ſubject with Thomſett that any body elſe heard?

A. No.

Q. Upon this he was particularly reſerved, and ſpoke in a low tone of voice?

A. He was not very loud, not ſo loud as you are at preſent.

Q. Did Mr. Bonney ſubpœna you on Saturday?

A. Yes, as I told you before.

Q. You had not told me that before—he ſubpœna'd you on Saturday, did he?

A. Yes.

Q. He ſerved you with the ſubpœna as ſoon as he came?

A. No, we had a little converſation firſt.

Q. He brought the ſubpœna ready, and delivered it to you before he left you?

A. Yes, I am ſure of that.

Q. But you had a little converſation firſt?

A. Yes.

Q. Now having taken ſome time to recollect yourſelf, I will put one queſtion again—Can you now recollect any perſon

ſon to whom you ſtated either of theſe converſations before Mr. Bonney applied to you?

A. No, I do not recollect them.

Cornelius Kettle,

Re-Examined by Mr. Plumer.

Q. In the ſecond converſation the gentleman has aſked you about—did Thompſett ſay whether he knew this great-coat or not?

A. No, he ſaid he could not ſwear to it—he told me, ſeveral times afterwards, that he could not ſwear to that great-coat.

Q. Did he tell you whether he was allowed any thing or not?

A. Yes.

Q. What?

A. That he was before Pitt, Dundas, and White, as he called them—he ſaid he told them he was a ſmuggler—that Mr. White called him on one ſide, and ſaid it was not proper he ſhould repeat that in that place—and that in their converſation he aſked him what he earned a week, and ſo on—that he ſaid ſometimes more, ſometimes leſs, ſometimes he got ten pounds—that they ſettled upon him ſix guineas a month till the trials were over, his expences were to be paid—that he was to lay aſide his buſineſs, and be at their call; he was to have ſix guineas a month till the trials were over—thinks I, poor man, they nurſe you—I thought ſo to myſelf.

Mr. Garrow. As this is a new fact, I am entitled, but ſhall not exerciſe my right, to croſs-examine upon it.

Kettle. I ſhould not introduce any falſehood, if I knew it, upon ſuch an important affair.

Sarah Jones. (Sworn.)

Examined by Mr. Dallas.

Q. Do you know Henry Thomſett?

A. Yes.

Q. Have

Q. Have you ever had any converſation with him about the priſoners?

A. Yes.

Q. When was it?

A. On the Monday that the priſoners were firſt arraigned.

Q. Was it before or after they were arraigned?

A. Before.

Q. Where was it?

A. At my own houſe.

Q. Was any perſon preſent but you and him?

A. There was a maid-ſervant, who was in and out during the time.

Q. What did he ſay to you in that converſation?

A. I ſent for him; he aſked me what I wanted him for; I ſaid I had ſent for him to aſk him how his wife and children did; he ſaid very well.—I ſaid, in the next place, what do you mean to do with theſe priſoners; he ſaid, hang them, to be ſure; I ſaid, I am ſorry for that, I hoped he would ſhew mercy; he ſaid, he would hang them if they had a thouſand lives.

Sarah Jones,

Croſs-Examined by Mr. Garrow.

Q. You ſent for him—when he came, you ſaid you ſent for him to aſk him how his wife and children did—he ſaid, very well—then you ſaid, there was another thing you had to aſk him—what do you mean to do with theſe people?

A. Yes.

Q. Your ſervant was going backward and forward, and did not hear this, I take for granted?

A. She heard ſome words.

Q. But not all that paſſed?

A. No.

Q. Is ſhe here?

A. Yes.

Q. How came you to ſend for him to aſk him thoſe queſtions about the priſoners?

A. On account of his little boy; I ſaw him in the morning going down the ſtreet, he ſaid his father was at the inn—he ſaid

ſaid, I am very ſorry, aunt, my father ſays he will hang the people, and if he does I wont live at home, for he will ſee their ghoſts afterwards.

Q. And leſt he ſhould ſee their ghoſts you ſent to admoniſh him not to aſſiſt in the proſecution—Who, on the part of the priſoners, did you, in the courſe of that day, mention this to?

A. I cannot ſay in particular, I mentioned it firſt to my huſband.

Q. And then, in the courſe of that day, you communicated it to ſome friend of the priſoners?

A. I did not myſelf at all.

Q. You deſired your huſband, perhaps?

A. I did not.

Q. How then?

A. I knew nothing about it till I was ſubpœnaed.

Q. When was that?

A. On Sunday laſt.

Q. This converſation took place very ſoon after the priſoners were taken up?

A. I do not know how ſoon the priſoners were taken; to the beſt of my knowledge this was on the 9th of March.

Q. It was the day upon which they were arraigned here, was it?

A. Yes.

Q. And he was coming here to attend the trial?

A. I ſuppoſe ſo.

Q. Do you know any gentleman at Canterbury of the name of Peck?

A. Yes, I do.

Q. What is he?

A. A phyſician.

Q. When did you ſee him?

A. I cannot ſay particularly.

Q. Have you ſeen him lately?

A. No; I think the laſt time I ſaw him was laſt Friday.

Q. Where did you ſee him?

A. I ſaw him paſs by.

Q. Had you any talk with him that day?

A. No.

Q. When did you talk with Mr. Peck upon this ſubject?

A. I cannot ſay when I did.

Q. It is not long ago?

A. Yes, I think it was ſoon after I ſaw my brother; we had ſome little converſation, but not much, relating to my brother.

Q. Was it the day of the arraignment that you ſaw your brother, or the next day?

A. I cannot tell.

Q. How long had you ſeen the doctor before you ſent for your brother?

A. It might be a week or a fortnight, I cannot ſay.

Q. Had you ſeen Mr. Peck after his relation, Mr. O'Connor, was taken up?

A. I cannot recollect, but I never had any converſation with Mr. Peck.

Mr. O'Connor. I have no ſuch relation as Mr. Peck, nor I do not know that there is any ſuch man exiſting.

Mr. Garrow. Do you know Mrs. Peck, the doctor's lady?

A. I do.

Q. Do you know, from her, whether ſhe is related to Mr. O'Connor?

Mr. Plumer. You cannot aſk that queſtion.

Mr. Garrow. You do not know, of your own knowledge, whether Mrs. Peck is or not related to any of the perſons here?

A. I only know I heard her ſay ———

Mr. Garrow. The gentlemen object to your ſtating what you heard her ſay.

A. I know nothing of my own knowledge.

Q. How ſoon after theſe gentlemen were taken up did you ſee Mr. Peck?

A. I cannot recollect.

Q. Did Mr. Peck tell you you would be ſubpœnaed?

A. No.

Q. Who did ſubpœna you?

A. Mr. Heſland.

Q. Does

Q. Does he live at Canterbury?

A. Yes.

Q. What is he?

A. He keeps a public-houſe.

Mary Morgan. (Sworn.)

Examined by Mr. Dallas.

Q. What are you?

A. I am a calenderer.

Q. Did you at any time live ſervant with Mrs. Jones?

A. Yes.

Q. How long ago?

A. I live with her now.

Q. Did you ever hear any converſation between her and Thompſett about any of the priſoners?

A. Yes, ſome words paſſed.

Q. When?

A. On the 9th of March.

Q. How many weeks ago?

A. I am not able exactly to ſay.

Mr. Attorney General. The 9th of March was the day, was it?

A. Yes.

Mr. Dallas. What converſation did you hear paſs?

A. She aſked what he had to ſay concerning the priſoners, and he ſaid he would hang them—I left the room then.

Q. Were you in the room all the time of the converſation between Mr. Thompſett and Mrs. Jones?

A. I was not in the room all the time.

The Honourable Thomas Erskine. (Sworn.)

Examined by Mr. Plumer.

Q. You know Mr. O'Connor?

A. I do.

Q. How long have you known him?

A. I have known Mr. O'Connor between two and three years, when he was laſt in England before this time, and I

live a great deal with thoſe with whom Mr. O'Connor lives much when he is in this country.

Q. Give me leave to aſk who thoſe friends are?

A. Mr. O'Connor's friends, in this country, are principally thoſe perſons who are my friends ———

Mr. Attorney General. The queſtion put was, whether Mr. Erſkine knew Mr. O'Connor.

Mr. Plumer. Mr. Erſkine ſaid, he lived principally with his friends—I aſked him, therefore, who thoſe friends were?

Mr. Erskine. I do not ſtand here to argue the admiſſibility of evidence, and you may depend upon it I ſhall ſtrictly adhere to giving anſwers to queſtions. Mr. O'Connor has principally lived with perſons of high rank in the public world—Mr. Fox, Mr. Grey, Mr. Sheridan, all that claſs of gentlemen with whom I have acted in public life in parliament, and with many other perſons, too many for me to recollect at this moment.

Q. Was that the caſe, this laſt time he was in England, as well as upon former occaſions?

A. Certainly ſo; and in conſequence of that I know Mr. O'Connor's character as well as I can be acquainted with the character of any gentleman who lives principally in another country, but whom I have ſeen frequently here.

Q. Shall I beg the favour of you to ſtate what that character is?

A. In my opinion, the beſt character that any man can poſſibly poſſeſs. I have a ſincere regard and eſteem for Mr. O'Connor, founded upon my opinion and belief that he is a man of the ſtricteſt honour and integrity—a man not only capable of, but who has made, great ſacrifices to what he thinks right; if there be any more prominent feature in his character than another, as far as I am acquainted with it, and I am much acquainted with it; it is a noble mindedneſs, and a high ſpirit of honor, and I therefore feel myſelf not only intitled, but bound upon my oath, to ſay, in the face of God and my country, as a Britiſh gentleman, which is the beſt thing any man can be, that he is incapable, in my judgment, of acting with treachery or duplicity to any man, but moſt of all to

thoſe for whom he profeſſes friendſhip and regard; and I do know poſitively of my own knowledge, that he has been in the conſtant courſe of profeſſing not merely regard, but admiration and enthuſiaſm for the perſons whoſe names I mentioned.

Q. Did you ever obſerve any change of that ſentiment in Mr. O'Connor towards them?

A. So help me God, never.

Q. As far as fell within your knowledge, did you know that he had any other connections in this country, beſides the gentlemen you have mentioned?

A. Upon my oath I had no reaſon to believe that he had.

Q. Whether you ever obſerved, during the latter part of the time that you knew him, any difference either upon public or private ſubjects, between himſelf and you, or any other gentlemen with whom he aſſociated here?

A. Quite the reverſe. Recollecting the ſtation which I hold in the law, I ſhould be little deſirous to urge upon the Court any thing that could be at all queſtionable in point of evidence, otherwiſe I could, if the Court thought it right, ſtate many many inſtances of his perſevering in the ſame opinions, and in the ſame regards; this I may ſay generally, that upon my oath, I never had any reaſon to think that Mr. O'Connor's principles and opinions differed from my own.

Q. Am I to underſtand that as well upon public ſubjects as private?

A. Certainly ſo.

Q. Did you ſee Mr. O'Connor in the month of January laſt?

A. I did.

Q. Where did you ſee him?

A. I ſaw him at my own houſe.

Q. Did you give him any advice upon that occaſion?

A. Purſuing the ſame reſerve, which I feel myſelf peculiarly bound to adhere to for the reaſons I have given, I ſhall not, until I receive permiſſion from the Court, ſtate any repreſentation that Mr. O'Connor made to me, and the more ſo, as I certainly feel a great deal upon the occaſion, becauſe Mr. O'Connor had very little to communicate to me that I was

not already acquainted with, as matter of notoriety concerning his ſituation in Ireland.

Mr. Attorney General. I take it to be clear that the fact may be given in evidence, that you either did or not adviſe him to go out of the kingdom, but I apprehend nothing more can be ſaid about it, either as a reaſon for not detailing the circumſtances, or in the way of detailing the circumſtances, but that the queſtion muſt be ſimply that.

Mr. Erſkine. I am obliged to Mr. Attorney General—I do aſſure the Court, that I might have been in another ſituation, where thoſe objections could not have been made.—I might have been defending Mr. O'Connor, as one of his counſel, but I felt my ſituation as a witneſs, ſo that I declined that.—I ſhall anſwer the queſtion—I not only adviſed Mr. O'Connor, but urged and importuned Mr. O'Connor, two or three days before the firſt day of Hilary Term, which commenced the 23d of January, to leave this country any how.

Mr. Plumer. You have no objection to ſtate all that paſſed between you upon that ſubject?

A. Certainly not.

Mr. Garrow. The law makes the objection, and we are to be governed by the rules of law.

Mr. Erſkine. I certainly have no objection whatever.

Mr. Attorney General. We know you not only have no objection, but that you can have none if the queſtion is put to you, therefore the queſtion ought not to be put.

Mr. Plumer. You ſay you are clear it was two or three days before Hilary Term, which began on the 23d of January?

A. I will not take upon me to ſpeak to the day, but I will take poſitively upon me to ſpeak to its being before the Term.

Mr. Juſtice Buller. And you think two or three days?

A. I think ſo.

The Honorable Thomas Erſkine.

Croſs-Examined by Mr. Attorney General.

Q. Have I taken you right, when I underſtood you to be ſure that the advice was given in the month of January?

A. I am

A. I am positively certain that it was before Hilary Term.

Q. And I think you have said upon your oath, that you have no reason to believe that Mr. O'Connor had any other connections?

A. I have no reason to believe, so help me God, that he had any other connections.

The Honorable Charles James Fox. (Sworn.)

Examined by Mr. Dallas.

Q. Do you know Mr. O'Connor?

A. I do.

Q. How long have you known him?

A. I think it is about four years, but whether three or four years, I do not recollect.

Q. Have you had occasion to see him frequently in the course of that time?

A. It is something more than three years—Frequently.

Q. Have you conversed with him frequently upon political subjects?

A. Yes, frequently.

Q. Who were the persons with whom he chiefly lived in this country?

A. He lived principally in the company in which I have the honour to live myself a good deal---he was very much with the leading members in the House of Commons and the House of Lords, who are sometimes called the Opposition---who are generally in the minority.

Q. Those were the persons with whom he chiefly lived?

A. Principally, as far as my knowledge went.

Q. Did he live upon terms of confidence and esteem with them?

A. I believe very much---Certainly with me for one, very much.

Q. Did that esteem and confidence continue up to the time, when he went to Margate in February last?

A. Certainly so with respect to myself.

Q. During the whole course of your acquaintance and of

your converſations with him, have you had reaſon to ſuppoſe him a man well or ill-affected to his country?

A. I always thought Mr. O'Connor to be perfectly well affected to his country; I have always conſidered him to be a very enlightened man, attached to the principles and the conſtitution of this country, upon which the preſent family ſit upon the throne, and to which we owe all our liberties.

Q. Are you acquainted with Lord Edward Fitzgerald?

A. Very intimately, he is a very near relation of mine, and very much eſteemed by me.

Q. Whom did he marry?

A. He married a French young lady that was here with Madame de Sillery.

Q. Do you know whether or not Lord Edward Fitzgerald intended ſome time ſince to go to France?

A. I believe he did.

Q. About what time?

A. I ſhould think about two years ago---it was about the time he went to Hamburgh, and I believe he was very anxious to go to France in order to ſettle ſome affairs there relative to his wife and her connections.---I remember the circumſtance particularly, becauſe in the preſent ſituation of things knowing that it was contrary to the law of this country to go to France, and even if it were not, that it might not be prudent in a perſon in his ſituation to do ſo, I made him promiſe that when he went abroad, which he did, he would not go into the French dominions.

Q. Were the affairs to which you have alluded concerns of property?

A. I believe they were---they were concerns relative to Lady Edward Fitzgerald, and her connections.

Q. Have you from your knowledge of Mr. O'Connor, any reaſon to believe him to be a man of diſſimulation?

A. Perfectly the contrary---I ſhould deſcribe him as a man of the openeſt carriage, one of them that I know.

Q. Is he cold and reſerved, or ardent and affectionate in his friendſhip?

A. Very ardent and affectionate in his friendſhips, and totally

tally without any reſerve, I ſhould think as much as any man I have the honour to be acquainted with.

The Honourable Charles James Fox.

Croſs-Examined by Mr. Solicitor General.

Q. You mentioned Lady Edward Fitzgerald, I believe ſhe is familiarly called Pamela?

A. She was before ſhe was married.

Q. Do you know Mr. O'Connor's hand writing?

A. I have ſeen his hand writing more than once, but I certainly never ſaw him write.

Q. You mentioned that you conceived the political opinions of Mr. O'Connor, and thoſe of your near friends, to be the ſame?

A. That was not exactly what I ſaid, but if I am aſked now I will anſwer that queſtion---I ſaid he lived principally with the gentlemen I have deſcribed, I believe his general principles were the principles of the conſtitution eſtabliſhed at the Revolution.

Q. I believe it was part of the wiſh of you and your friends, that ſuch meaſures ſhould be adopted in Ireland as you conceived to have a tendency to conciliate?

A. Moſt certainly.

Q. I believe you and your friends approved of the conduct of Lord Fitzwilliam when he was there?

A. I certainly approved of all that it was underſtood Lord Fitzwilliam intended to do.

Q. Particularly as to the Catholics?

A. Particularly as to the Catholics---it may be neceſſary to add, that I was at that time, and have ever ſince been of opinion, that the conceſſions to the Catholics which are alluded to, would be in no degree beneficial, but, perhaps, even injurious, if they were not accompanied with an attention to the complaints of the Proteſtant and Preſbyterian ſubjects of Ireland, as well as thoſe of the Catholics, with reſpect to a a reform of Parliament.

Q. Do you know of Mr. O'Connor's being in any manner connected with any of the priſoners at the bar?

A. I never heard of it.

Mr.

Mr. Dallas. Was it your opinion, that it was for the intereſt and the happineſs of Ireland, that the Catholics and Preſbyterians ſhould be united, inſtead of ſeparated and diſunited?

A. Certainly.

Q. In your converſations with Mr. O'Connor, did he appear to concern himſelf chiefly with Engliſh or Iriſh politics?

A. Almoſt wholly with Iriſh politics.

The Right Honorable the Earl of Suffolk. (Sworn.)

Examined by Mr. Plumer.

Q. Does your Lordſhip know Mr. O'Connor?

A. Yes, I do.

Q. How long has your Lordſhip known him?

A. It was eleven years ago when I firſt knew him, or rather later, it was about June or July, 1787.

Q. Has your Lordſhip known him from that time down to the preſent?

A. Certainly, but I have ſeen him on very few occaſions ſince, and if aſked upon that, I can ſpecify the particular occaſions upon which I have ſeen him.

Q. I believe your Lordſhip was acquainted with him in Ireland, as well as in England?

A. If the Court will give me leave, I will mention how I became acquainted with him in Ireland, becauſe I think it material.—I went to my regiment which was at Cork, I went firſt to Dublin, I was there four or five days. I enquired at Dublin my way to Cork, and the beſt way of going there; they recommended me to go the firſt thirty miles by water, in a kind of paſſage boat, ſomething like the ſtyle of the Dutch boats, that I ſhould meet with a mixture of company, but with ſome very good company. I had no converſation with Mr. O'Connor as I recollect, but chiefly with Alexander Shortly; but upon the delay of the boat, in paſſing through the locks, I walked by the ſide of the boat, it took up ſometime to paſs through them, I think Mr. O'Connor overtook me, we entered into converſation, I own I was ſtruck both with his manner which appeared to me extremely gentleman

tleman like, and that kind of diffidence which I have always very much admired in his character; for that has always ſtruck me as a material part of his character. I continued my converſation with him, during the remainder of my paſſage—after we returned to the boat, I found he was likewiſe going to Cork, where I was going to my regiment. It was much my wiſh, that he ſhould accompany me there, from what I had ſeen of him, and in order to induce him to it, I told him, Mr. O'Connor, I am going to Cork, I find you are going there, and that your friends live in that part of the country, I ſhall be extremely obliged to you, if you will take the place of my ſervant in my chaiſe, and in order to induce Mr. O'Connor to do it, I ſaid you ſhall pay for the poſt horſe he is to ride; I put it upon that footing, thinking he might otherwiſe object to it, he very readily accepted of the offer; and you may ſuppoſe, Gentlemen, that in a communication of three days and three nights, conſtantly together upon the road; that we were pretty well acquainted, and a very friendly communication it certainly was. I certainly did very much admire that manner which I found confirmed to me from that acquaintance, and likewiſe thoſe principles which he then had occaſion to mention. I remember particularly, that a great part of our converſation was about Ireland, of which knowing nothing—indeed I was born in it, but I left it at a very early period of life.

Q. Whether from that time you had an opportunity of knowing and converſing familiarly with him, and diſcovering his political and public ſentiments, as well as his private character?

A. Only once that I recollect, particularly ſince, and that is two years ago, when he lived in Grafton Street, I then had a converſation with him of about half an hour.

Q. Did you live much with him in Ireland?

A. No, I remained at Cork, and he went immediately to his friends, I ſaw little of him afterwards in Ireland.

Mr. Juſtice Buller. Does your Lordſhip mean that a few years ago was the only time when you talked with him upon political ſubjects?

A. The

A. The politics of the preſent day, were out of the queſtion then, it was upon the corruption of Ireland, that a great part of our converſation conſiſted during that journey.

Mr. Plumer. Did your Lordſhip ſee enough of his private character and behaviour, to obſerve whether he was a reſerved man, or a man of an open diſpoſition?

A. I certainly ſaw ſo much of him, that I have always told Lady Suffolk, and the reſt of my friends, that I had met in that country, with one of the moſt extraordinary young men I ever had converſed with, both with regard to ability, and as far as I could judge for moral character, for I think I never heard purer principles uttered by any man in my life, he ſtruck me to be at that time about twenty-one, what his real age is I do not know.

Q. Did you obſerve any marks of duplicity or diſſimulation about him or the reverſe?

A. I wiſh to ſay quite the reverſe, and ſo much ſo that in the laſt converſation I had with him two years ago, I wiſhed to introduce him to ſome of thoſe perſons in this country for whoſe character and abilities I have the higheſt reſpect, and if you pleaſe, I will mention the gentlemen, Lord Moira, Mr. Sheridan, the Biſhop of Landaff, and Mr. Serjeant Adair —They are perſons for whom I entertain a particular regard, and you may judge from the mixture, that it was not a political party which I wiſhed to introduce him to; but it was thoſe friends for whom I have a particular reſpect.

Q. Have you had any reaſon to alter your ſentiments reſpecting him?

A. Quite the reverſe, that was the laſt time I think that I ſaw Mr. O'Connor.

The Right Honorable the Earl of Suffolk,

Croſs-Examined by Mr. Attorney-General.

Q. Then you ſaw Mr. O'Connor eleven years ago, and two years ago?

A. I have ſeen him ſince between thoſe periods, about ſix

or

or ſeven years ago, when I carried him to the Houſe of Lords, and I do not remember ſeeing him beſides, excepting that day two years ago, when he dined with thoſe particular friends of mine.

Richard Brinſley Sheridan, Eſq. (Sworn.)

Examined by Mr. Dallas.

Q. Do you know Mr. O'Connor?

A. I know Mr. O'Connor very intimately.

Q. How long have you known him intimately?

A. I think about three years.

Q. During the courſe of that time, have you had occaſion to ſee him frequently?

A. Very frequently whenever he was in England.

Q. With what deſcription of perſons did he chiefly live in England?

A. I was particularly anxious for his ſociety on account of his character, and the recommendations I received reſpecting him from Ireland. I never met him in any company but in the ſociety in which I live myſelf, namely, thoſe gentlemen who principally form the Oppoſition, and in the private ſociety at my houſe, where I was always moſt happy to ſee him, and in that ſociety alone, have I ever met with him.

Q. Have you ever converſed with him confidentially upon political ſubjects?

A. I think moſt confidentially, becauſe I treated him, and I think he treated me, with a confidence and unreſervedneſs that might have been expected to have ariſen alone from a much longer acquaintance; but from my opinion of his principles and character, and ſuch communication that we had, and we did communicate without the ſmalleſt reſerve whatever, upon all political topics relating to England or Ireland.

Q. Is his general character that of frankneſs and openneſs in his converſation?

A. I think in the extreme.

Q. Did he chiefly concern himſelf with the politics of England, or with thoſe of Ireland?

A. I have

A. I have talked with him upon the politics of both countries very unreſervedly, or with the utmoſt frankneſs of communication upon political ſubjects, and the ſituation of both countries.

Q. About which did he chiefly concern himſelf?

A. Reſpecting the affairs of Ireland, much more, certainly, than thoſe of England; I have met him in circles where we introduced more the politics of England, about which he ſeemed not to concern himſelf; and I have ſaid, in his preſence, and in the preſence of other gentlemen that live in our ſociety, that Mr. O'Connor ſeemed to be occupied with what he conceived to be the oppreſſions and injuries inflicted upon Ireland; in which, I beg to add, I agreed with him. He ſeemed grieved, and afflicted almoſt, that people in England ſhould think they had any grievances to complain of.

Q. Did your intimacy continue with him up to the time of his apprehenſion?

A. Till within a week—I think he was at my houſe within a week; my intimacy continued with him up to that time, and my reſpect and regard for him increaſed every hour to that moment.

Q. Had you reaſon to know whether he conſidered it ſafe for him to continue in this country?

A. I had great reaſon to know the contrary, for I took the liberty to adviſe him not to continue here.

Q. Do you know whether Lady Edward Fitzgerald had any property in France?

A. I particularly know that ſhe had, and that Lord Edward Fitzgerald never had recovered it; he had endeavoured it. I do not know how far I may be permitted to ſtate that; but from great intimacy with Madam De Sillery, with whom Lady Fitzgerald was brought up, I had opportunities of knowing her and her connections very intimately, as previous to her going to France, ſhe had ſpent a month at my houſe in the country, with Lady Edward Fitzgerald, then called Pamela, and had conſulted with me many times upon the ſubject of this lady's portion in France, which ſhe wiſhed to withdraw from France, and place upon ſecurities here, or in the Engliſh funds; when

when ſhe was driven from Paris at an hour's warning, I had a letter from her ——

Mr. Garrow. We cannot hear that we take it from you, that ſhe had property in France.

Mr. Sheridan. Lord Edward Fitzgerald has been in purſuit of the property, and it never has been recovered.

Richard Brinſley Sheridan, Eſq.

Croſs-Examined by Mr. Garrow.

Q. Whether you happen to be acquainted with any friend of Mr. O'Connor's, of the name of Captain Jones: or had Mr. O'Connor ever introduced ſuch a perſon to you?

A. I muſt be allowed to ſtate, that when I adviſed Mr. O'Connor to leave this kingdom, he urged to me that he was confident he ſhould not be permitted. I adviſed him to go to Yarmouth.

Mr. Garrow. My queſtion is, whether it had happened that Mr. O'Connor had ever introduced to your acquaintance any friend of his, of the name of Captain Jones?

A. He did not.

Q. Whether Mr. O'Connor ever informed you that he was intimately acquainted with any perſon in England, of the name of Captain Jones?

A. He gave me reaſon to believe, that in his attempts to leave England, he might form acquaintances that he would not otherwiſe do.

Q. That is not an anſwer to my queſtion. I muſt take the liberty of repeating it. Whether Mr. O'Connor ever informed you that he was intimately acquainted with any perſon in England, of the name of Captain Jones?

A. I cannot charge my memory; I cannot ſay that he might not mention Captain Jones to me.

Q. Did Mr. O'Connor ever introduce to your acquaintance any friend of his whom you knew by the name of O'Coigly?

A. Certainly not.

Q. Or Quigley?

A. Certainly not.

Q. Or Fivey?

Mr. Sheridan. You mean perſonal introduction?

Mr. Garrow. Yes, at preſent.

Mr. Sheridan. Certainly not.

Q. My queſtion now is—whether he had never informed you that he was acquainted with any perſon in England, of the name of O'Coigly?

Mr. Sheridan. Is the queſtion confined merely to the name of O'Coigly?

Mr. Garrow. Yes, my queſtion is—whether you were ever informed by Mr. O'Connor that he was intimately acquainted with a gentleman whoſe name was O'Coigly, or Quigley?

A. I think not.

Q. Or whoſe name was Fivey?

A. I think not.

Mr. Juſtice Buller. Had you any reaſon from Mr. O'Connor to know that he was acquainted with a perſon known by either of thoſe names?

A. I think none of the names were ever mentioned to me.

Mr. Juſtice Buller. Whether in any of your converſations Mr. O'Connor gave you to underſtand that he had made an acquaintance with a perſon known by thoſe different names?

A. If I am aſked whether I have had an intimation from Mr. O'Connor, that he may have made an acquaintance with a perſon who might be the means of conveying him out of the kingdom, he being apprehenſive that he ſhould be ſtopped at any port, if he went in his own name, I ſhall ſay he has mentioned ſuch a perſon, but, upon my honour, and my oath, I do not recollect that he diſtinctly named who that perſon was.

Mr. Juſtice Buller. Whether he gave you to underſtand that he had made an acquaintance with ſuch a perſon?

A. I think moſt diſtinctly that he had. I meant to have ſtated that, if I had been ſuffered to go on with my evidence at firſt.

Mr. Garrow. Are you at all acquainted with Mr. Binns?

A. I may have met Mr. Binns, and may have ſpoken to him, as I frequent popular ſocieties very much, but I have not any recollection of him, I really will not be poſitive, be-

cauſe

cauſe many gentlemen apply to me, as many perſons do to thoſe who are ſuppoſed friends to the popular cauſe, upon any ſubject which they think may have been of ſervice, he may have been at my houſe; I do not know whether he has.

Q. But my queſtion is whether he is acquainted with you?

A. I may have been ſpoken to by many people that I do not recollect.

Q. Perhaps I may venture to ſuppoſe that Mr. O'Connor had never introduced Mr. Binns to you?

A. Certainly not.

Q. Nor informed you that he was acquainted with ſuch a perſon?

A. I beg in fairneſs to anſwer that queſtion again—under the general intimation given to me by Mr. O'Connor, upon his rejecting my advice to go openly to Yarmouth, and to go under his own name to Hamburgh, he intimated to me that his dread of being ſhut up again in priſon in Ireland was ſuch, that he was endeavouring to uſe means to ſet his foot on the Continent in any way that he could.

Q. But did he make any communication which pointed to the priſoner at the bar, Mr. Binns?

A. By the name of Binns, I ſhould think certainly not.

Q. Nor deſcriptive of what Mr. Binns now turns out to be?

A. Certainly not.

Q. In the laſt viſit which Mr. O'Connor made to London, and the various reſpectable ſocieties in which you met him, whether you met him by the name of O'Connor?

A. Never by any other name whatever.

Richard Brinſley Sheridan, Eſq.
Re-Examined by Mr. Dallas.

Q. Did I underſtand you rightly, that you adviſed Mr. O'Connor to take another name in going out of the kingdom?

Mr. Garrow. No, quite the contrary; Mr. Sheridan's advice was to go to Yarmouth in his own name, and from thence to Hamburgh.

Mr. Dallas. Do you know whether Mr. O'Connor ever belonged to any political ſociety in this country?

A. I have underſtood from Mr. O'Connor that he avoided

all political ſocieties in this country; and what particularly prepoſſeſſed me in his favour, was, that I never met with any man who was ſo determined in reprobating the idea of any party or body of men in this country, under any pretence of grievances whatever, encouraging the idea of French aſſiſtance. In my life I never met with a man more ſteady in that idea.

Mr. Attorney General. When a queſtion is aſked—Do you know whether Mr. O'Connor ever belonged to any political ſociety in this country, I ſhould think the anſwer to that would be much ſhorter.

A. With great reſpect to the learned gentleman, I thought I had unjuſtly and negligently omitted a circumſtance in my general opinion of Mr. O'Connor's character, which I ought not to have omitted, and I took that opportunity of ſetting it right.

Mr. Dallas. Did you ever obſerve any change in Mr. O'Connor's political ſentiments and conduct?

A. Never in the ſlighteſt degree, excepting, if it may be called a change, that I underſtood, and with regret, that his apprehenſion of being apprehended and ſent over a priſoner to Ireland, put him upon ſome ſchemes to get away, his friends very much lamented that he was driven to any ſuch neceſſity.

Q. Did he continue to live up to that time upon the ſame footing of intimacy and regard with thoſe friends with whom he had aſſociated before?

A. Yes, and every one had the ſame feelings with reſpect to his endeavouring to get abroad by any means that were in his power.

His Grace the Duke of Norfolk. (Sworn.)

Examined by Mr. Gurney.

Q. My Lord Duke, are you acquainted with Mr. O'Connor?

A. I ſaw him at two different times about two years ſince.

Q. In what company did your Grace ſee him?

A. He came to ſee me one morning, and we had ſome converſation upon the ſubject of a ſpeech he had made in the Houſe of Commons in Ireland; he came to ſee me from a wiſh expreſſed on my part to be acquainted with him.

Q. Did

Q. Did you ſee him in any company afterwards?

A. I afterwards dined where he did, at the Earl of Suffolk's.

Q. Had you any opportunity, my Lord Duke, of knowing the character of Mr. O'Connor?

A. No further than what might ariſe from thoſe two occaſions of meeting, and general report.

Q. Then from what you know of Mr. O'Connor, what do you apprehend to be his character?

A. I cannot remember the particulars of any converſation, but I conſider him as a gentleman acting warmly in the political line, and attached to conſtitutional principles in the ſame way as myſelf.

Michael Angelo Taylor, Eſq. (Sworn.)

Examined by Mr. Gurney.

Q. Are you Sir, acquainted with Mr. O'Connor?

A. I have been acquainted with Mr. Arthur O'Connor, I ſhould think near three years, it was either from the end of the year, 1795, or the beginning of the year, 1796.

Q. In what ſociety have you generally met Mr. O'Connor?

A. I have generally met him, and indeed my firſt acquaintance with him commenced in the ſociety of the perſons, with whom, in political opinions, I have the honour conſtantly to act, I mean the ſociety of Mr. Fox, the Duke of Bedford, Mr. Grey, and a variety of other moſt honourable men, with whoſe political opinions I have always agreed, and ſhall continue to agree.

Q. Had you an opportunity from your knowledge of Mr. O'Connor, to know what his political opinions were?

A. I have;—my opinion of his political opinions is, that he was attached to the principles upon which the Oppoſition in this country is conducted; and I look upon thoſe principles to be the true principles which ſeated our preſent King upon the throne, where, I hope, he will long continue.

Q. Did you know Mr. O'Connor, down to the period of his being laſt in London?

A. I did not know Mr. O'Connor for the laſt ſix months during the time he was in England, from an accidental circumſtance, I was unfortunately laid up with a long illneſs, or I ſhould moſt probably have done all I could to have regained his knowledge, and to have reſumed his friendſhip.

Q. Did you ever know of any change in the political opinions of Mr. O'Connor?

A. None.

Q. Did you ever hear him ſtate any principles at all adverſe to the conſtitution of this country?

A. Far from it.

Q. Any principles favourable to an invaſion of this country?

A. From all I know of Mr. O'Connor, and I do declare it moſt ſolemnly, I ſhould think him one of the laſt men to plan an invaſion of this country, or to act in any manner baſely to it.

Q. Was Mr. O'Connor a man of an unreſerved open character, or of cloſeneſs and diſſimulation?

A. He appeared to be a man of uncommon openneſs of character, in all the converſations I ever had with him.

Q. What did you conceive to be the nature of his friendſhips, cold or warm?

A. Exceedingly ſtrong; I can only ſay, I beg to add, that I have looked upon Mr. O'Connor in private life to be a man of the moſt amiable manners and moſt honourable intentions.

The Right Honourable Henry Grattan. (Sworn.)

Examined by Mr. Gurney.

Q. You are acquainted with Mr. Arthur O'Connor?

A. Yes.

Q. How long have you been acquainted with him?

A. I have been perſonally acquainted with Mr. O'Connor ſince the year 1792; I knew him by character before, but have been well acquainted with him ſince that time.

Q. Has your acquaintance with him enabled you to form a judgment of his political opinions?

A. Yes, I think it has.

Q. Did

Q. Did you ever hear any opinion from him which led you to ſuppoſe he could favour an invaſion of his country by the French?

A. No, rather the contrary.

Q. What do you conceive to be Mr. O'Connor's private character?

A. A very good one.

Q. I underſtand he was formerly a member of the Iriſh Houſe of Commons?

A. He was.

Q. Were you a member at the ſame time?

A. At the ſame time.

Q. Had you any opportunity of knowing whether Mr. O'Connor's character was reſerved or unreſerved?

A. I think his character was unreſerved.

Q. And you have had an opportunity of forming a judgment of what his character really was?

A. I think I have.

The Honourable Lord John Ruſſell. (Sworn.)

Examined by Mr. Gurney.

Q. Is your Lordſhip acquainted with Mr. O'Connor?

A. I am.

Q. How long has your Lordſhip been acquainted with him?

A. I had the honour of knowing Mr. O'Connor in the year 1796, and this year.

Q. Has your Lordſhip had opportunities of frequently ſeeing and converſing with him, and forming any judgment of his character?

A. I have been in Mr. O'Connor's company ſeveral times.

Q. What has your opinion been of his opinions and character?

A. I have always had a very high opinion of Mr. O'Connor's principles and character; I conceive his principles to be the ſame as thoſe which have always guided my own conduct, to be in favour of a ſound, rational, and conſtitutional liberty.

Q. Did you ever diſcover in Mr. O'Connor any ſentiment favourable to an invaſion of this country by the French?

A. Never.

Q. Did Mr. O'Connor live in habits of intimacy with the ſame perſons as your Lordſhip?

A. He did.

Q. Was that the caſe during his reſidence in England, in the preſent year?

A. Yes, I have been in his ſociety three or four times in the preſent year, always in the ſociety of thoſe perſons.

Q. Was Mr. O'Connor received and treated on the ſame terms of intimacy and regard as he had always been by thoſe perſons?

A. Yes, he was.

Q. I do not know whether you can inform the Court whether it is not the cuſtom for perſons abroad to travel in uniform; perſons who are not military men?

A. It is the common practice, and I did it myſelf in the years 1795 and 1796, ſome time after I had quitted the army, and ceaſed to hold a commiſſion from the King.

Q. Your Lordſhip took with you a military dreſs?

A. I did, and wore it at the time when I had ceaſed to be a military man; it is a convenient and a common practice.

The Right Honourable the Earl of Thanet. (Sworn.)

Examined by Mr. Gurney.

Q. Is your Lordſhip acquainted with Mr. Arthur O'Connor?

A. I am.

Q. How long have you been ſo?

A. I was acquainted with Mr. O'Connor about three years ago.

Q. In what ſociety has your Lordſhip generally known him?

A. I have generally known him in the ſociety of my friends.

Q. Will your Lordſhip have the goodneſs to ſtate who they are?

A. Mr.

A. Mr. Fox, Mr. Sheridan, Mr. Grey, Mr. Francis, Lord Robert Spencer; generally thoſe perſons who are in the Oppoſition in both Houſes of Parliament.

Mr. Garrow. That need not be repeated by every witneſs; when aſked if he has ſeen the priſoner, it will be taken for granted that it was in the moſt reſpectable circles.

Mr. Gurney. Have you had an opportunity of forming an opinion of Mr. O'Connor's character and principles?

A. I have the higheſt opinion of Mr. O'Connor's character.

Q. Have you been enabled to form a judgment of his political opinions?

A. I always underſtood, both from his converſation and from others, who were perhaps more acquainted with him than I was myſelf, that he entertained the ſame political ſentiments as every one of the Oppoſition.

Q. Have you ever obſerved any change in thoſe principles?

A. Never.

Q. Has your Lordſhip ever obſerved any opinion or principle of Mr. O'Connor that could lead you to ſuppoſe he had a wiſh that this country ſhould be invaded by the French?

A. Never.

Q. Had you given Mr. O'Connor any invitation to your houſe?

A. Yes.

Q. At what time?

A. As near as I recollect, about the month of February laſt.

Q. Your Lordſhip has travelled on the Continent?

A. I have.

Q. Do you know whether it is a practice for gentlemen who are not military men, to travel in regimentals?

A. I had regimentals made myſelf, every body I was acquainted with alſo had regimentals.

Q. I believe my Lord you never were in the army?

A. Never.

The Right Honourable the Earl of Oxford. (Sworn.)

Examined by Mr. Plumer.

Q. Whether your Lordſhip is acquainted with Mr. O'Connor?

A. Perfectly.

Q. What is the character of Mr. O'Connor?

A. That of a perfectly loyal man.

Q. Was he a perſon much attached to his friends, or the contrary?

A. Perfectly attached to his friends.

Q. Have you ever obſerved any marks of duplicity or reſerve conſtituting his character?

A. Directly the contrary.

Q. Did you ever obſerve the leaſt appearance of his having any diſpoſition favourable to the French?

A. No, directly the contrary.

The Right Honourable the Earl of Oxford,

Croſs-Examined by Mr. Attorney General.

Q. Your Lordſhip ſaw Mr. O'Connor probably in the month of February laſt?

A. I did.

Q. Do you know any of the other priſoners?

A. I do not.

Q. Do you know Mr. Binns?

A. I do not.

Q. Did Mr. O'Connor mention to you any of the other priſoners?

A. He did not.

Samuel Whitbread, Eſq. (Sworn.)

Examined by Mr. Gurney.

Q. Are you acquainted with Mr. O'Connor?

A. I am.

Q. How long have you been ſo?

A. I became

A. I became acquainted with Mr. O'Connor in the beginning of the year 1796.

Q. Has your acquaintance with him enabled you to form a judgment of his character and principles?

A. I think it has.

Q. Be ſo good as ſtate what they are?

A. I think Mr. O'Connor to be a man of amiable manners in private, and of an honourable and independent mind; his public principles appeared to me to be the ſame as my own; from the converſations that I have had with him, and from thoſe which he has had with other perſons when I have been preſent, I collected that he was a friend to the conſtitution of this country, that he ſaw the exiſtence of abuſes as I did, and wiſhed a reformation of thoſe abuſes, by the means of Parliament.

Q. Whether you ever heard any thing from Mr. O'Connor which could lead you to ſuppoſe that he could wiſh for an invaſion of this country by the French?

A. Quite the contrary.

Mr. Plumer. We have ſome more witneſſes, but I could wiſh to ſave your Lordſhip the trouble; my learned friends know, I believe, that there are ſeveral other gentlemen attending.

Mr. Garrow. Your ſaying it is enough, Mr. Plumer.

Mr. Plumer. Mr. Grey, my Lord Lauderdale, and ſeveral other gentlemen attend to give the ſame teſtimony.

Mr. Juſtice Buller. You have gone as far as character can go.

Mr. Plumer. We have thoſe perſons willing and deſirous to be called here to atteſt Mr. O'Connor's character.

Mr. Garrow. We will take it ſo; it will be underſtood, from your ſtating it, that there are many more gentlemen equally reſpectable.

The End of the Evidence for the Priſoners.

MR. DALLAS.

Mr. DALLAS.

May it pleaſe your Lordſhip,

Gentlemen of the Jury,

The evidence being now cloſed, which it has been thought neceſſary to trouble you with in ſupport of the defence, it becomes my duty to recapitulate that evidence, and to make ſome obſervations upon the whole of this caſe. And, Gentlemen, I can with truth aſſure you, that the ſituation in which I now ſtand, has, for ſome time paſt, to the excluſion of almoſt every other thought, and to the extinction of almoſt every other feeling, occupied my waking, and, I may add, my ſleeping hours.

Gentlemen, you will alſo give me credit when I ſay, that I riſe to addreſs you, already greatly exhauſted by the length to which this trial has proceeded, enervated to a conſiderable degree by the anxieties which have unavoidably attended the progreſs of ſo important a caſe, and by other circumſtances which it is unneceſſary to ſtate to you, and feeling, in common with every gentleman with whom I have the honour to be joined upon this occaſion, a degree of ſolicitude beyond what I have ever yet experienced in the whole courſe of my profeſſional life. Gentlemen, conſult your own feelings, and you will find no difficulty in giving me the fulleſt credit for what I ſay, when you reflect, that I have to obſerve, in the laſt inſtance, upon a caſe of this magnitude, to conſider the various evidence which has been given to ſupport and to repel the charge, and that in this moment, in ſome degree at leaſt, depends, upon my feeble efforts, the defence of the five ſeveral perſons who now ſtand before you, charged with the higheſt crime which it is poſſible for ſubjects to commit, and doomed, in the courſe of a very ſhort time, to hear from your lips a ſentence of life or death.

Gentlemen, the charge of which they ſtand accuſed is High Treaſon; not conſiſting in facts of that equivocal nature which, in the opinion of ſome men, may amount to treaſon, while, in the judgment of others, they may prove of a different quality—ſuch as the trials that have been already alluded to in the courſe of this day, when the Attorney General, no doubt, honourably

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in the exercise of his office, thought it right to impute treason to those men, whom Juries, acting no doubt as honourably in the discharge of their office, thought fit to acquit; not consisting, I say, in acts of this equivocal nature, but in facts of that sort, which if they are established by sufficient evidence, I agree with the Attorney General, must, in the opinion of every man who lives, be considered as amounting to treason, and if there be degrees in treason, to treason of the worst and of the highest sort.

Gentlemen, when I say this, it leads me to an observation that you have heard more than once in the course of this business; but it has been truly observed by a celebrated moralist, that there are some truths so important, that they never can become stale from repetition: and of this nature most undoubtedly are those truths, of all others, the most important, which relate to the administration of criminal justice, and which, in the administration of that justice, concern the life of man. You have been truly told, that in proportion to the magnitude of the offence, to the enormity of the crime, so ought the evidence to be plain and to be strong, and I trust there is no man among you, who, at this moment, is not fully satisfied, that nothing short of complete demonstration, by which I mean moral certainty, can justify you to your country, to the accused, to your consciences, and to your God, in pronouncing a verdict against them, or against any one of them, that is to have the effect of depriving him of his life.

This is not a rule of evidence drawn from the abstruse mysteries of law; it is not a maxim of artificial and technical refinement: it is the first rule of reason and humanity; it is the living principle of eternal justice; the volume in which it is written, is the heart of every man who has a heart of flesh and blood within his bosom. But fortunately for the honour of the law of England, happily for the administration of its justice, the written law of the land, the commentaries of the most enlightened lawyers, the decisions of the most respectable Judges, all are but so many splendid comments upon this great and important principle. The statute upon which this charge is founded, bears it upon its hallowed page, written in plain

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and indelible characters.—Who ſhall be attainted of open treaſon? No man, ſays the law, except him who ſhall be thereof *provably* attainted, of open deed by perſons of his own condition.—The word of the ſtatute upon which this indictment is founded, is not *probably* but *provably*, and in what manner, Sir Edward Coke, the firſt authority upon every ſubject that relates to the law of England, has laboured the expoſition of this important term, you have already heard ſo fully from my learned friend who has preceded me, and who made that addreſs to you, which will, I am confident, not only do him immortal honour, but which, I truſt, will prove in the event as beneficial an addreſs as it was poſſible to make for thoſe who are accuſed, that I ſhall not trouble you with much obſervation.

Gentlemen, in explaining this important word in the ſtatute, Sir Edward Coke, deſires that all perſons who may have occaſion to conſult it, that is all men who ſhould be placed in the ſituation in which you are now called upon to act, would take notice of the important diſtinction that there is in the ſtatute, between the word *provably* and the word *probably*, applying to the manner in which the charge of High Treaſon is to be eſtabliſhed. Gentlemen, I have before me the words in which he expreſſes himſelf upon the ſubject. By *provably*, he ſays, is meant, that it is upon direct and manifeſt proof; not upon conjecture, or preſumptions, or inferences, or ſtrains of wit, but upon good and ſufficient proof; and then he ſays, the reaſon why plain and direct proof is required—why inferences, why preſumptions, why ſtrains of wit are excluded, is, that the offence is puniſhed in that manner ſo heavily, and ſo ſeverely, as there is none other the like. As, therefore, the puniſhment is ſuch, that there is none other the like, ſo ſays this great luminary of the law of England, ought the proof to be ſuch, that it ought to be more full, more clear, more certain, than is requiſite in any other caſe.

Gentlemen, this doctrine is not peculiar to the great Judge to whom I have already referred you. I have before me the writings of another eminent lawyer, to whom upon ſubjects of this ſort, we are peculiarly accuſtomed to look up for information and authority, I mean the work of Mr. Juſtice Foſter, in

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his diſcourſe upon the law of High Treaſon; and in which, not ſpeaking of this ſtatute, but of another, but ſtill of a ſtatute which relates to treaſon, I mean an act which paſſed in the reign of Queen Anne, by which it was enacted, 'that if 'any perſon or perſons ſhall malicioufly, adviſedly, and di-'rectly, by writing or printing, declare, maintain, and affirm, 'that the Queen was not the lawful or rightful Queen of 'theſe realms, or that the pretended Prince of Wales, who 'now ſtiles himſelf King of England by the name of James 'the Third, hath any right or title to the Crown of theſe 'realms, or that any other perſon or perſons hath, or have any 'right or title to the ſame, ſuch perſon or perſons ſhall be 'guilty of High Treaſon.'—Mr. Juſtice Foſter, in commenting upon this ſtatute makes this obſervation, 'In no caſe can a 'man be *argued* into the penalties of the act by inferences and 'concluſions drawn from what he hath affirmed, the criminal 'poſition muſt be *directly* maintained to bring him within the 'compaſs of the act.'

But, it may perhaps be aſked, what is plain and direct proof as applied to a ſubject of this ſort? It is ſaid to be dangerous, and certainly it is, at all times, difficult to define, I will not therefore attempt it; but ſuffer me to endeavour, at leaſt, to illuſtrate the ſubject by having recourſe to the writings of an author, who has more thoroughly, than any other, inveſtigated the nature of the human mind, in order to aſcertain the foundations upon which belief and judgment ought to depend. I mean the celebrated Mr. Locke, in his Eſſay upon the Human Underſtanding. Providence, he ſays, has for the moſt part, that is in matters of common concernment, afforded us only, what he calls the twilight of probability; and, reaſoning with the reverence that it became him to do upon this exerciſe of the divine will, he ſtates, that it was probably adapted to the ſtate of mediocrity in which we are placed here, that by being made every day ſenſible of our own ſhort ſightedneſs and liability to error, it might check our pride, and reſtrain our arrogance; but he adds, there are ſome things which God has put in the broad day-light! Gentlemen, treaſon is not a matter of common concernment---whether the five perſons

ſons who now ſtand before you ſhall live or die—live honourably or die ignominiouſly—this is not a matter of common concernment to be judged of, by what Mr. Locke calls the twilight of probability—it is one of thoſe things which, by the ſpecial ordainment of Providence, to be collected from the reaſon, and from the feelings beſtowed upon man, muſt be put in the broad light of day—that is—the mind muſt receive the fulleſt aſſurance that it is capable of acquiring upon any human ſubject whatever.

Gentlemen, you will do me the juſtice to obſerve, that as far as I have hitherto proceeded, I have been extremely cautious, from reſpect to you, and from a regard to the perſons who are accuſed, to ſtate nothing to you from a perſon ſo inſignificant as myſelf. When I have talked to you of the evidence by which the crime is to be eſtabliſhed, which is as much a part of the law as the crime itſelf, I have in every inſtance referred you to authority, and I have ſtated to you the expreſs words in which that authority is contained. I have referred you to the language of the ſtatute, to the commentary of Sir Edward Coke, to the doctrine of Mr. Juſtice Foſter, and having now, as I humbly conceive, fixed and aſcertained the great principles by which you are to proceed to the inveſtigation of this cauſe, I will come immediately and directly to that which forms the ſubject of the charge.

Gentlemen, it ſeems to me that the whole of this caſe may be divided into three diſtinct grounds of conſideration: the charge; the law upon which the charge is founded; and the evidence given in ſupport of the charge, and of the defence. The indictment before you contains the charge, and it conſiſts of different ſorts of Treaſon—but chiefly compaſſing the king's death, and adhering to the king's enemies. And I admit, that adhering to the king's enemies, is in point of law, compaſſing the king's death upon this plain principle, that every man ſhall be preſumed to intend that which is the probable conſequence of the act he does; and it is a probable conſequence of the act done, that is an adherence to

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the king's enemies for the purpoſe of invading the realm, that the death of the king may be thereby produced.

Gentlemen, theſe treaſons are material for your conſideration, becauſe you will find, that though the indictment ſtates the ſuppoſed offence in different ways, yet ſtill in ſenſe and ſubſtance the whole of this caſe, as no doubt you have already perceived, will finally reſolve itſelf into the main allegation of a treaſon conſiſting in an adherence to the king's enemies; that is, adhering to the king's enemies is the preciſe offence, which the indictment imputes to the ſeveral perſons who are now upon their trial before you; it is that of which you muſt be fully ſatisfied before you can find them guilty of the crime aſcribed to them by the charge.

But, Gentlemen, this is not all. Every charge of this ſort, beſides ſpecifying the particular ſpecies of treaſon, muſt alledge the overt-acts, by which the intention of the mind is pretended to have been made manifeſt. This indictment, therefore, does alledge certain overt-acts of treaſon, and I am ſure, that when I ſtate to you, that none but theſe overt-acts of treaſon can be the foundation of your verdict, I ſhall have the acquieſcence of the learned Judges before whom this indictment is now tried.

Gentlemen, I do not mean to deny, that one overt-act of treaſon may be evidence of another. But what I mean to contend is, and I truſt with the authority of the Court, that though they ſhould eſtabliſh any number of overt-acts of treaſon, other than thoſe ſtated in the indictment as evidence of the acts ſtated in the indictment, ſtill, if the acts ſtated in the indictment are not eſtabliſhed by that evidence, you muſt put every other overt-act of treaſon entirely out of your conſideration, ſo that the caſe is reduced to the ſimple conſideration of thoſe facts which are ſtated as the overt-acts of treaſon upon the face of the charge. All the other circumſtances which have been given in proof before you, are no other than collateral facts made uſe of by way of teſtimony, in order to eſtabliſh the exiſtence of thoſe overt-acts which are alledged in the body of the indictment.

Gentlemen, having therefore ſtated this for the purpoſe of

making you diſtinctly underſtand, in the outſet of the few obſervations with which I mean to trouble you, what is the charge which you have to try, and what are the principles as applied to the evidence, and as applied to the indictment, by which your enquiry muſt be conducted—I come now directly to conſider the nature of the overt-acts themſelves.

Gentlemen, upon all occaſions there is nothing that conduces ſo much to the inveſtigation of truth as ſimplicity. It is impoſſible to do juſtice in a caſe which we do not thoroughly underſtand. I will therefore endeavour, diſtinctly and clearly, and in ſuch a manner that not one of you ſhall, for a moment, be at a loſs to comprehend what is the caſe that you have to try, to bring you now to a cloſe and correct conſideration of the indictment which lies open before me.

Gentlemen, upon this indictment the Attorney General has truly ſtated to you, that a great number of different overt-acts are alledged, the number being, for the reaſon which I ſhall preſently ſtate to you, perfectly immaterial. The overt-acts alledged, I believe, are, in number, ſeven, but whether more or leſs, is not material, as I ſhall hereafter explain to you, as to the purpoſe of the preſent enquiry. Gentlemen, the chief overt-act which is ſtated upon this indictment, and to which all the evidence applies, relates to a paper-writing of a certain deſcription, and to which is imputed a ſpecific quality, which I ſhall preſently examine more at large. But before I proceed to analyſe the ſubſtance of this overt-act, I will take the liberty of ſtating to you, that the other overt-acts which relate merely to the different attempts made for the hiring of a veſſel, are ſubordinate and auxilliary; that is, they are charged as the means made uſe of to carry into effect the traiterous intention which is alledged in the count, which imputes to theſe perſons the poſſeſſion of a certain paper-writing, intending to convey it to France, and to procure an invaſion of this kingdom.

Gentlemen, the count to which I allude, is that which ſtates that the ſeveral perſons at the bar, Mr. O'Connor,

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Mr. O'Coigly, Mr. Binns, and the two perſons who ſtand behind, did conſpire, conſult, and agree to procure and obtain, and in their cuſtody and poſſeſſion, conceal and keep a certain paper-writing. The indictment then ſets forth the nature of that writing, alledging that it was of a ſort to convey intelligence to the enemies of the country, and by means of that intelligence, and of the incitements which the paper contained, to exhort and to encourage them to an invaſion of this realm, that is, of England. I ſay of England, as the evidence applies to the charge, becauſe the term, realm, would otherwiſe include Scotland alſo, but as certainly excludes Ireland.

Gentlemen, you perceive therefore, that in this caſe, the overt act alledged is of a conſultation, conſpiracy, and agreement, the nature of that conſpiracy and agreement being alledged by the indictment to procure and obtain a certain writing, which it ſtates, and then it goes on to alledge, after ſpecifying the contents of the paper, that the intent was to convey it to the enemy, in order to induce them to make an invaſion of England. In the intent, therefore, of inducing the enemies of this country, being of a particular deſcription, that is, the perſons carrying on the government of France, by the deſcription of the Executive Directory of France, to invade England, and acts alledged to have been done in proſecution of that intent, conſiſts the whole of this charge.

Gentlemen, I ſtate this becauſe it is extremely important that you ſhould be made fully ſenſible of it. And in order to illuſtrate it, I will put a ſtrong caſe for your conſideration: I will ſuppoſe, for the purpoſe of argument, what is completely diſproved, in point of fact, by all the circumſtances in the cauſe, that there exiſted in the mind of any one of the ſeveral perſons now on trial before you, intentions of a treaſonable nature with reſpect to Ireland—Nay, Gentlemen, I will go further, and I will ſuppoſe that it had turned out upon this occaſion, by the cleareſt of all poſſible evidence, that theſe ſeveral perſons were concerned in a conſpiracy to induce the French to invade Ireland. Why, Gentlemen, I ſay preciſely, for that

very reaſon, that it did ſo clearly and certainly appear that they intended to procure the invaſion of Ireland, for that very reaſon, if in point of fact this was proved beyond all doubt to be the caſe, you would be compelled to acquit them of this indictment, which imputes to them not an intention to procure an invaſion of Ireland, but an intention to procure an invaſion of England; and it is your bounden duty to ſay, whether they are guilty or not guilty of the particular charge. But I put this caſe for the ſake of illuſtration merely, becauſe by and by you will moſt fully perceive, that there is not the leaſt ground for caſting ſuch an imputation, or any thing leading even to ſuch ſuſpicion, with reſpect to any one of the perſons now at the bar.

Gentlemen, I have now ſtated to you the nature of the treaſon which this indictment charges, and the overt acts which are alledged as the means of carrying that treaſon into execution. And having thus explained to you, and I hope clearly and diſtinctly, the nature of the accuſation, and the means by which it is to be made out, I will now come, without further preface, to conſider what are the facts of the particular caſe.

And, Gentlemen, before I go into the detail of the evidence, I will take the liberty of ſtating to you what I conceive to be the general nature of this tranſaction. I admit that it does diſtinctly appear, from the evidence that has been given, that the ſeveral perſons at the bar, were, at the time when they were apprehended at Margate, about to embark on board a ſhip, with the exception of one, whoſe caſe ſtands upon a different ground from that of the others, and which, by and by, I ſhall have occaſion to explain to you. But, with the exception of Mr. Binns, it does appear, that the other perſons at the bar, Mr. O'Connor, Mr. O'Coigly, Allen, and Leary, were about to embark on board a veſſel at Margate, at the time that they were apprehended. And I further admit, that there is evidence before you, that in a great-coat pocket which is ſtated to belong to one of the perſons now at the bar, was found a paper which has been produced in Court, and is a paper of that deſcription that will maintain the overt act ſtated in the indictment, provided all the other parts of that overt act can be made out; that

that is, that it was a paper in the actual poſſeſſion of the perſon in queſtion, by which I mean his conſcious poſſeſſion, a poſſeſſion conſiſting in his knowledge of the fact of the paper being in his pocket; or, in other words, I admit, that if you are ſatisfied that the paper was found in the pocket of Mr. O'Coigly, if you are further ſatisfied that he knew of its being there, if you are ſatisfied that he intended to convey it to the enemies of the Crown, and if you are ſatisfied that it was a paper of that deſcription, namely, an invitation from perſons calling themſelves the Secret Committee of England, to the Executive Directory of France; then, in reſpect of all theſe circumſtances, undoubtedly this overt act would be completely eſtabliſhed as to him. But the caſe, with reſpect to the other perſons, would ſtand upon a very different ground: for even the caſe attempted to be made upon the part of the proſecution, conſiſts in this ſpecific fact, namely, that the paper in queſtion was found, according to them, in the poſſeſſion of Mr. O'Coigly, and Mr. O'Coigly only. It is not pretended that there is any reaſon to believe that the great coat belonged to any other perſon; nor has it been endeavoured to be proved, nor even has it been ſuggeſted, that the paper was put into that pocket by the hand of any one of thoſe other perſons, or that there is any poſitive evidence that it was there with their knowledge, privity, and conſent. The caſe, therefore, thus ſtated, will, as you obſerve, reſolve itſelf again into very different grounds of conſideration. For I am perſuaded that it cannot have eſcaped your accuracy, ſtill leſs that of the learned Judges who preſide on this occaſion, that the caſe of theſe different perſons ſtands, in ſome reſpects, upon grounds entirely diſtinct. It will therefore again be neceſſary, for the purpoſe of inveſtigating the caſes of the ſeveral priſoners, to preſent each ſeparately before you, in order to enquire what part each may be ſuppoſed to have had in the tranſaction in queſtion, as the evidence now ſtands.

Gentlemen, in this order of proceeding, the caſe which naturally preſents itſelf the firſt for your conſideration is the caſe of Mr. O'Coigly. Now what are the circumſtances under which Mr. O'Coigly appears before you? Gentlemen, it appears that he is a native of Ireland; that he was a Prieſt

there; that, for cauſes which do not diſtinctly appear, but the nature of which is immaterial, he was obliged to quit Ireland, it being unſafe for him to continue there. And you have it in evidence, as I ſhall by and by ſhew by referring you to particular documents, that he continued in Ireland ſo late at leaſt as the 14th of January, 1798. It is in evidence on the part of the proſecution, that on that day a letter was written by Mr. O'Coigly, to Lord Edward Fitzgerald. This proves him to have been in Dublin upon the 14th of January, and it does not appear at what time he left it, ſubſequent to that day. Gentlemen, the caſe therefore of Mr. O'Coigly is not that of a perſon who had been uſually reſident in this country, connected with any one of the political ſocieties which exiſt in the town of London, but the caſe of a perſon, a native of Ireland, and proved to have been there ſo lately as the period which I have already mentioned.

The firſt thing that will occur for your conſideration, will be how happened it, that there was any acquaintance between Mr. O'Connor and O'Coigly. And we have heard a great deal of croſs-examination from different quarters of the Court, ſome from my friend Mr. Garrow, who is abſent, and ſome from the Attorney General, enquiring of thoſe, who were the moſt intimate friends of Mr. O'Connor, whether he had ever introduced to them a perſon, as his friend, by the name of Captain Jones? Gentlemen, with reſpect to the origin of the connection between Mr. O'Connor and Mr. O'Coigly, Mr. O'Connor, who is now upon his trial, can give you no evidence; O'Coigly, who is now upon his trial, can give you no evidence; you muſt therefore collect it in the beſt manner you are able, from the circumſtances which exiſt in the caſe, and I truſt it will be deemed the leaſt exceptionable manner of collecting it, on behalf of the accuſed, when I refer you to the evidence that has been given upon the part of the proſecution.

Gentlemen, by the evidence given for the Crown, it diſtinctly appears that Mr. O'Coigly was in the habit of acquaintance, familiarity, and intimacy, with Lord Edward Fitzgerald; that Lord Edward Fitzgerald was in the habits

of close friendſhip with Mr. O'Connor; and you find, that upon the 14th of January, there was a correſpondence, which is in proof, between Mr. O'Coigly and Lord Edward Fitzgerald. It is alſo in evidence, that Mr. O'Coigly was obliged to leave Ireland for his own ſafety. He was not in England when Mr. O'Connor firſt arrived here. Then the natural preſumption ariſing even out of the evidence given upon the part of the Crown, is, that Lord Edward Fitzgerald, who was the friend of Mr. O'Connor, was the perſon owing to whoſe introduction of Mr. O'Coigly to Mr. O'Connor, they were afterwards found in the ſituation which I ſhall have occaſion to deſcribe to you.

Now, Gentlemen, Mr. O'Connor might or might not be acquainted with Mr. O'Coigly in Ireland, or he might receive a recommendation of him in the manner I have ſuggeſted. Which of the two, will turn out to be immaterial for the reaſons I ſhall preſently give. It is enough for me to ſtate, that it is not proved on the part of the Crown, that there was an acquaintance, intimacy, or friendſhip whatever, between O'Coigly, and Mr. O'Connor, before a time ſubſequent to the correſpondence between him and Lord Edward Fitzgerald. You find, then, that Mr. O'Coigly was obliged to leave Ireland, and that when in England he intended to go to France. But before we come to the circumſtances of the journey in queſtion, you will recollect that it has been proved, and I admit the fact was ſo, that Mr. O'Coigly paſſed in London by the name of Captain Jones, and that Mr. O'Connor undoubtedly did, from time to time, addreſs him by that name. Why, Gentlemen, if you conſider this circumſtance accurately, you will be of opinion with me, that a perſon who was obliged to leave Ireland becauſe it was unſafe for him to continue there, was preciſely, on that account, not likely to paſs by his own name in the town of London. The circumſtance, therefore, of Mr. O'Coigly paſſing by the name of Captain Jones is accounted for, by the fact, that it was unſafe for him to continue in Ireland, and for the ſame reaſon he meant to be concealed in London. The cauſe therefore which induced the aſſuming a falſe name, was his wiſh to continue in con-

cealment, and becauſe he thought his ſituation unſafe, if he ſhould be known, which might have happened if he had paſſed by his real name.

Mr. Solicitor General. Mr. Dallas aſſumes, as a fact, Mr. O'Coigly being obliged to leave Ireland; we have no note of ſuch evidence.

Mr. Juſtice Buller. The evidence was no more than that the Orange party racked his father's houſe twelve years ago, that was by a ſingle witneſs, Stewart.

Mr. Dallas. Gentlemen, I certainly was endeavouring to ſtate to you the effect of the evidence that has been already given; always ſubmitting to you, ſubject to the correction of the learned Judge, when the evidence comes to be ſtated hereafter, whether the obſervations I make upon the evidence are warranted or not. But you will underſtand me to be ſtating what I conceive to be the effect of the evidence; that effect to be made out by the obſervations which I ſubmit to your conſideration. It appears then to be clear, that Mr. O'Coigly was paſſing by the name of Captain Jones; and you have no evidence that during the time that he continued in London, he did belong to any public ſociety, or connected himſelf with perſons of any political deſcription whatever. But you have this evidence from Mr. Bell, that he never ſaw Mr. O'Connor, and Captain Jones together, till about ten days, I think, before the time when they ſet off in the Whitſtable hoy, that is, on Sunday the 25th of February, when O'Coigly, in company with Mr. O'Connor, with the other perſons, with the exception of Mr. Binns, embarked at the Tower, and arrived at Whitſtable in the evening of that day.

Now I would beg leave, Gentlemen, to make this obſervation which appears to me to be material for your conſideration. The caſe endeavoured to be eſtabliſhed againſt Mr. O'Coigly, is the poſſeſſion of this paper, and by poſſeſſion, I mean that he knew it to be in the place in which it is ſtated to have been found, ſuppoſing the evidence which the officers from Bow Street have given to be true in this reſpect. Now to proceed by ſteps. It is perfectly clear, that there is no evi-

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dence upon the part of the Crown, of any antecedent delivery of this paper by any perſon whatever to Mr. O'Coigly; there is no proof of his having been ſeen in the poſſeſſion of the paper; there is no evidence of his having read the contents; and the whole caſe is reduced in point of proof to the ſingle circumſtance of its being found in the pocket of a great coat, which great coat is ſtated at the time to have belonged to him.

Gentlemen, the firſt fact therefore for your conſideration will be, to whom this coat belonged. For undoubtedly if it did not belong to Mr. O'Coigly there is an end of the charge as it relates to him, and of courſe a complete end of the charge as it relates to all the other priſoners. With reſpect to the fact of the great coat belonging to him, here again if I recollect the evidence diſtinctly, it ſtands upon the teſtimony of one perſon only, and that is the witneſs Smith, who was maſter of the hoy, and who ſtates that in the courſe of that day he ſaw Mr. O'Coigly wear a light great coat, with a black collar, which great coat I admit he has gone the length of ſwearing, he believes to be that which was produced to him, and the great coat produced to him was that which the officer had proved to have been found in the inn at Margate.

Now I would pauſe here for a ſingle moment. The evidence of this man is merely evidence of belief. He never had ſeen Mr. O'Coigly before; of courſe he had had no opportunities of obſerving his dreſs; he was on deck where there were the other perſons occaſionally, who are now at the bar; then I put it to you to ſay even if this man had ſworn in the moſt poſitive manner that he knew the great coat to be the ſame, inſtead of having merely ſaid, as I underſtood him to have ſaid, that it was a great coat like that produced to him, but ſuppoſing him to have poſitively ſworn that it was the ſame great coat, I aſk you whether you would go the length of believing a man who, having had no opportunity of particularly examining it, having made no mark upon it at the time, judging merely from its colour and cape, I aſk you whether you would conclude in your minds, when the life of a man is at

ſtake, that that evidence was ſuch as you ought to act upon, or whether you would not conclude that it was ſwearing a great deal too much from ſo ſlight an obſervation as the colour of a coat, and the ſingle circumſtance of the collar being the ſame. As far therefore as any poſitive evidence is given from any living witneſs, it is clear it is not that which you can depend upon, as that ſort of certain teſtimony, which proves the property of the coat in queſtion, and when life is to depend upon the ſort of proof.

But I admit the caſe upon the part of the proſecution does not reſt here. They have undoubtedly given evidence to you of a paper found in the pocket of that coat, and among others, they have given evidence that the paper which forms the ſubject of this indictment was, among others, found there. The witneſſes have undoubtedly ſworn that the paper was found there. But no perſon has endeavoured to ſay by whom it was put there, and therefore whether the paper was there with the knowledge of Mr. O'Coigly, or without his knowledge, that alſo is a mere inference that you muſt draw from the circumſtances of the caſe, becauſe the caſe in that reſpect, as in every other, is totally deſtitute of any poſitive evidence. I do not mean to contend that it is not peculiarly a ſubject for your conſideration from the facts that have been proved, but I ſay, that according to the nature of thoſe facts, ſo ought the inference that you draw from them to be one way or other in favour or againſt the priſoner. What then is the nature of the facts proved? All that they have proved with regard to the great coat is, that in the pocket was found a paper which is the paper in queſtion. They found alſo a pocket book in which there are different articles belonging to Mr. O'Coigly, and this great coat was found in the room of an Inn, where it had continued all night, the priſoners having ſlept in a different apartment. Now this is the whole of the evidence that is given on the part of the proſecution in order to prove the poſſeſſion of this paper by the priſoner, Mr. O'Coigly, with his own knowledge, and from which knowledge, you are deſired to infer the intention of delivering it into the hands of the enemy. Undoubtedly it is for you to draw the inference.

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I can only ſtate the facts to you, and ſtate them correctly, nor would I wiſh to puſh any obſervations upon this part of the caſe beyond that which it fairly warrants, becauſe I feel that I ſhould be rendering no ſervice, either to the particular individual whoſe caſe is now under your enquiry, or to the other perſons taking their trial with him. But the queſtion for your conſideration will be, whether under the evidence given on the part of the proſecution, no perſon having been called to prove this to be the dreſs he generally wore, no perſon being called to prove that he knew of this paper being in his pocket, no perſon having been called to prove that it is in the hand writing of any one with whom he was acquainted, the great coat being proved to have been in the open room of an Inn during the night, it will be for you to ſay, whether, under all theſe circumſtances, you are ſo completely convinced of the exiſtence of this paper in the pocket of Mr. O'Coigly, with his knowledge, for the purpoſe ſtated in the indictment, that you muſt find with reſpect to him the allegation of the indictment fully proved, that is, that he had it in his cuſtody and poſſeſſion, and had it for the purpoſe of conveying it to the enemy in order to ſend them intelligence of the ſtate of this country.

The circumſtance of its being in poſſeſſion of Mr. O'Coigly, with his knowledge, becomes ſtill leſs probable, if you conſider the extraordinary fact that has been proved by one of the witneſſes, who has been alſo called upon the part of the Crown. For I am ſure you cannot have forgotten, that one of the witneſſes from Whitſtable expreſsly told you, that in a converſation which he had with O'Coigly, he mentioned to him that the people at Whitſtable were in a ſtate of diſtruſt, which is, in other words, that they ſuſpected them to be in the proſecution of ſome improper purpoſe. Now that converſation is extremely material in this reſpect, namely, that it does not profeſs to have been addreſſed to any of the other priſoners, becauſe then O'Coigly might have heard it or not, but the converſation is addreſſed to O'Coigly, and not to the other priſoners; and yet the very perſon in whoſe ear the alarm is ſounded, who is put upon his guard, who is told that

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ſuſpicion is abroad, who has every reaſon to believe that a ſearch will be made in conſequence of that ſuſpicion, what is the conduct of this man who is ſtated to be charged with an important paper for the purpoſe of conveying it to the enemy? Why his conduct is ſuch as is repugnant to all obſervation furniſhed by common experience. Inſtead of increaſing his caution in conſequence of the intelligence he received, inſtead of concealing or deſtroying the paper, knowing that it was in his pocket, liable to be ſearched, he leaves it in the open room of a public inn, and has not the common caution to carry it into the room in which he ſlept! Gentlemen, again I put it to the candor of every one of you to ſay, whether this is a conduct that at all agrees with the obſervation you have made upon the manner in which perſons generally conduct themſelves, who are in the perpetration of deeds of guilt? And with this obſervation I leave this part of the ſubject, having now ſtated all that occurs to me with reſpect to the caſe of Mr. O'Coigly, with regard to the poſſeſſion of the paper in queſtion, that is, the ſuppoſed poſſeſſion, or the actual poſſeſſion, with his knowledge, in the manner it has been endeavoured to be proved by the witneſſes called on the part of the Crown.

I ſhall next proceed to the conſideration of the caſe of Leary.

And, Gentlemen, Leary's caſe is very important for your conſideration, not merely as it relates to himſelf, but as it concerns all the other priſoners at the bar. Leary you have been told by Mr. Attorney General, in his opening, is the Servant of Mr. O'Connor, and what was ſtated to you by Mr. Attorney General, has been proved by the witneſs whom he called. You will remember that Leary was not a perſon who was paſsing by a feigned name, or under an aſſumed character. For though Mr. O'Connor was paſſing by the name of Colonel Morris, yet Leary ſtill continued to act in that character which really belonged to him, that is, as the ſervant of Mr. O'Connor, paſſing by the name of Colonel Morris. But Leary is included in this indictment. And in the opening of the Attorney General, no diſtinction whatever

was

was made between his caſe, and that of any other of the priſoners at the bar. I do not wonder at it. The Attorney General would have been inconſiſtent with himſelf, according to the principles he has ſtated, if he had gone the length of diſtinctly admitting, what I ſhall diſtinctly prove, that it is utterly impoſſible for you, upon the ſort of evidence that you have heard, to convict that boy of the crime of High Treaſon, which is now imputed to him. In doing this, I ſay he would have been inconſiſtent with himſelf, for reaſons which I ſhall preſently explain.

Gentlemen, Leary, the ſervant of Mr. O'Connor, is not pretended to have had any particular connection with any one of the perſons who are now upon their trial, excepting his maſter; nothing particular is alledged with regard to him as to the poſſeſsion of this paper: his caſe therefore amounts to this, and this only, that he, the ſervant of Mr. O'Connor, who had been ſuch for a great length of time, is found in the courſe of his uſual employment, travelling with his maſter, his maſter, I admit, paſsing by a feigned name, and that which is made a queſtion for you to conſider is—whether, upon the whole view of this caſe, you think there is the ſlighteſt evidence to believe, that Leary was privy to the exiſtence of any ſuch paper, to the contents of it, or to the plot with which he, this ſervant, is charged, of having confederated with his maſter, and other perſons accuſed, to commit High Treaſon, by carrying this paper over to the enemy?

Why, Gentlemen, I own I am aſtoniſhed! If you were to be aſked who was preciſely the perſon, of all others, whom human imagination would point out as the laſt, and the leaſt likely, to be acquainted with the purpoſe of Mr. O'Connor, if his purpoſe were of a treaſonable nature, I ſhould ſay the very man who ſtood in the relation to him of ſervant to maſter. Gentlemen, you know perfectly well, that we are not in the habit of communicating our plans, even upon ordinary occaſions, to thoſe who are in the capacity of domeſtics about us. You know, likewiſe, that if you were going upon any journey, and your ſervants were to enquire of you what the object of that journey was, you would conſider it as a very officious and impertinent intru-

intruſion. In the caſe, therefore, of Leary, it is repugnant to all probability to ſuppoſe that his maſter would explain to him, or that he would aſk an explanation of his maſter where he was going, or what was the purpoſe and object of his journey.

To what, then, does his caſe amount? To this, and this only—The ſervant of Mr. O'Connor, who had lived with him in Ireland, who knew the ſituation of affairs there, knowing that Mr. O'Connor was about to embark at a ſea-port town, Mr. O'Connor being a public man, knowing therefore that his maſter was paſſing by a feigned name, to be concealed, he is found in the courſe of employment by his maſter, attending upon him, and there is no evidence of any ſort before you, that at the moment when all theſe perſons were apprehended, this man even knew, from any communication made to him, or from any circumſtance whatever, whether his maſter was going to Ireland, whether he was going to France, or, in a word, where he was going; and without any evidence to convince you that Leary knew whether Mr. O'Connor was going to one place or the other, without a word of evidence to connect him with the treaſonable paper or purpoſe, you are deſired to infer againſt this ſervant, from the mere act of his attendance upon his maſter, whom he had long ſerved, that he not only knew that he was not going to Ireland, but that he actually knew he was going to France; and further, that he knew he was going to France for the ſpecific purpoſe of carrying a treaſonable invitation to the enemy to invade England, and was co-operating with him in this intention and deſign!!—— Good God! Gentlemen, this is the length to which the doctrine of conſtruction, of preſumption, and of inference, is puſhed upon the part of the proſecution; and I admit that it does not ſtop ſhort of this extreme. For according to the reaſoning of the Attorney General, it would indeed comprehend the caſe of this man, for the ſame reaſons that he ſtates it to involve the caſe of the others. It is for you to ſay, whether theſe principles and doctrines can, in point of law, reaſon, or humanity, be maintained.

The caſe of Leary, therefore, I take for granted, for the reaſons given, is much too clear to require further obſervation.

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With one word only I will detain you further. He is included in this indictment, for what reaſon I do not know, and becauſe I do not know, I will not take upon me in this reſpect to condemn the conduct of the Attorney General. It is poſſible that he might have been originally put into the indictment from his exact ſituation not being aſcertained; and as theſe perſons were ſome of them paſſing by feigned names, and under aſſumed characters, it may have happened, that the Crown might not be in poſſeſſion then, of complete evidence to aſcertain the fact, whether he was that which he now turns out to be, the ſervant of Mr. O'Connor, and nothing more. But now this fact does diſtinctly appear, I am extremely miſtaken if the Attorney General will ultimately preſs you upon this part of the caſe for a verdict of guilty; but I am ſure I am not miſtaken, that if he ſhould call upon you for ſuch a verdict, he will do it in vain.

But before I finally diſmiſs the caſe of Leary, I will trouble you with only one obſervation more. You have been already referred to the caſe of Lord Preſton, Aſhton, Elliot, and another perſon. There were four perſons who upon that occaſion were going to France. With reſpect to two of them, they were tried and convicted under the circumſtances that have been ſtated. Elliot, who was the third, but not a ſervant, was not even brought to his trial, though put in the indictment. As to the fourth perſon, whoſe name alſo appears in the courſe of the proceedings, he was going as ſervant to Lord Preſton, and the Crown, knowing this fact, did not even think it proper to include him in the charge; and yet his caſe was in that reſpect preciſely the caſe of Leary. The ſervant of Lord Preſton, going in a ſtate of concealment out of this country, which ſtate of concealment, might have ſuggeſted to the mind of a ſervant, the idea of ſome improper or criminal purpoſe, at leaſt preciſely as much ſo as in the caſe of Leary. They are parallel caſes, the circumſtances of each ſuggeſting an equal degree of ſuſpicion; but in that caſe the ſervant was not even accuſed, much leſs put upon his trial, and gravely pointed out as a fit object for a verdict of high treaſon. I now therefore quit his caſe, with the moſt entire and perfect confidence that it is impoſſible

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for you to heſitate one moment in ſaying that there is not the ſlighteſt pretence for imputing to this man any guilt whatever, much leſs that guilt which the indictment charges---the crime of high treaſon, in adhering to the King's enemies.

The next perſon who occurs, is the priſoner of the name of Allen. And with reſpect to him, his ſituation is in ſome degree aſcertained, becauſe you find, from a perſon of the name of Smith, that Allen lodged in a houſe in Plough-court, Fetter-lane, kept by a perſon of the name of Evans; and ſhe tells you, that ſhe had not known him for above ten or twelve days before the time when he went to Whitſtable, in company with ſome of the perſons now before you. The caſe, therefore, of Allen, appears to be this---a perſon who, you find, had not long been reſident in London, becauſe he is not proved to have lodged at any other place, and in the only place in which he did lodge, he is proved to have been there but a few days before the tranſaction in queſtion, and nothing is given in evidence to you with reſpect to his connection with Mr. O'Connor, nor with any one of the other perſons, except Mr. Binns, and the only evidence of his connection with Mr. Binns, and indeed Mr. O'Coigly, is, that he lodged in the ſame houſe in which they did. But who is Mr. Allen? Is he a man likely to be engaged in a treaſonable plot againſt this country? Is he a perſon whom you can imagine to have been in the pay of the enemy? Is he a perſon whom you can for one moment believe to have received the wages of treaſon? Why, the evidence on the part of the Crown informs you what is the miſerable condition of this wretched man. You find, that after arriving in London, he was reduced to that ſtate of diſtreſs and poverty, that he is proved to have lodged in this houſe, not in an apartment of his own, but that he, in company with two other men, all occupying the ſame room, paying for that room at the rate of ſeven ſhillings and ſixpence a week, that he, thus ſituated and thus circumſtanced, had lodged there for ſome days before he went on board this veſſel with Mr. O'Coigly, for the purpoſe of going with him, I admit, to France. The evidence with reſpect to Allen is different from that of Leary, in reſpect of the peculiar circumſtances of their different ſituations, becauſe

becauſe Allen, I admit, was not the ſervant of Mr. O'Coigly, but he was paſſing under a feigned character, in order to eſcape with Mr. O'Coigly, who was paſſing by the name of Jones; and it clearly appears he was a man in a ſtate of miſerable poverty and abject diſtreſs. But with regard to the paper, the point of the charge both with reſpect to him and Leary, there is not the ſlighteſt particle of evidence, on the part of the Crown, to ſhew that either of theſe perſons knew of the exiſtence of ſuch a document in the poſſeſſion of any man whatever, or had reaſon to ſuſpect it, much leſs that they were engaged in the plot deſcribed. Then ſo far we get. Leary was the ſervant of Mr. O'Connor, and Allen a perſon in diſtreſs, paſſing as the ſervant of O'Coigly. Their caſe amounts to this---One is with his maſter, and the other going out of England, it being unſafe for him to continue there; and they are found in Margate, in the ſame houſe, I admit, having the charge of the baggage, at the time this paper is ſtated to have been found in a great-coat pocket, which is ſaid to have belonged to Mr. O'Coigly. Therefore, with regard to theſe two perſons, the caſe on the part of the Crown completely fails in eſtabliſhing that which it is neceſſary to maintain, in order to induce you to convict them, that is, their knowledge of the exiſtence of this paper. Poſitive evidence there is none. The circumſtantial proof leads to no ſuch inference with reſpect to them; on the contrary, as far as it leads to any inference, it excludes the preſumption, as it does alſo completely with reſpect to the others, as I ſhall next have occaſion to ſhew.

And this brings me to the caſe of Mr. Binns---he alſo is proved to be a native of Ireland. When his acquaintance with Mr. O'Connor commenced, does not exactly appear, nor can it for the reaſon that I have ſtated to you before, as to another part of the caſe, becauſe he, as well as Mr. O'Connor, being now upon his trial, they cannot give evidence to explain it. But this I admit does appear. That ſometime before all theſe perſons left London, in order to go to France, Mr. Binns went to Canterbury, for the purpoſe of hiring a veſſel; and, I admit, for I would not wiſh to attempt to miſlead you, in the courſe of the obſervations which it is my duty to ſubmit

to you, I do admit, that in all the inſtances, which have been ſpoken to by the different witneſſes on the part of the Crown, there is no ground whatever, to impute to them any attempt to conceal the truth, or to miſrepreſent it, with reſpect to the fact of Mr. Binns having been in treaty with them, for the purpoſe of hiring a veſſel in order to convey ſome perſons to France. Now let us conſider who the perſons are, and the teſtimony they have given as to this fact. Mahoney and Claris, who live at Canterbury, are the two firſt witneſſes who were called upon the part of the Crown. And the ſtory that they tell you is, that Mr. Binns applied to them, to know if he could get a veſſel, under the circumſtances they have ſtated, and, that when he firſt applied to them, he told them that his name was Williams, and that in Canterbury he paſſed by that name, and that letters were ſo addreſſed to him.

Now, Gentlemen, you will conſider what the purpoſe of Mr. Binns was—clandeſtine I admit; but whether criminal or not, is a different conſideration; and if criminal, to what extent is the preciſe point of enquiry. The tranſaction being clandeſtine, it required therefore concealment---and this will explain the firſt thing of which I have to ſatisfy you, namely, why Binns paſſed by another name than his own, the reaſon for which, I think, you will completely feel, from the ſingle conſideration, that if he had paſſed by his own name, being engaged in a clandeſtine attempt to hire a veſſel in order to go to Fluſhing or France, he would have been thereby prevented from attaining that purpoſe. No man wilfully ſo acts as to counteract his own purpoſe. He, at once, aſſumes the name of Williams. Was it for any other reaſon? why no. You have that in evidence, from the witneſſes for the Crown. It was not from any conſciouſneſs of guilt in the tranſaction; ſtill leſs could it be from the conſciouſneſs of treaſonable guilt, becauſe Mahoney, Claris, and three or four other witneſſes, have told you that both at Canterbury and Whitſtable, though Binns paſſed at the Poſt Office, and publicly, by the name of Williams, yet he told, to no leſs than five or ſix different perſons, that his name was not Williams, but Binns. Nay, he

went

went further, and told them why he paſſed by the name of Williams, informing them that he was the perſon tried ſometime before, and acquitted, upon a charge of having uttered ſeditious words, at Warwick. I am ſure you will think a perſon going to a ſea-port town in his own name, having been tried for ſeditious words not long before, was the moſt likely of all others to have his letters opened, and therefore the mere circumſtance of that trial, induced the neceſſity of concealing his name, that he might not be interrupted in his purpoſe, and at once explains why he paſſed by the name of Williams, and not by the name of Binns. But any inference ariſing from this fact, that he was conſcious of a treaſonable deſign, is completely negatived upon the part of the evidence given by the Crown itſelf, becauſe it is repugnant to all probability, that a man conſcious of ſuch a purpoſe, would, at the moment of attempting to carry it into execution, tell to a great number of perſons, whom he had never ſeen before, that his name was Binns, whereas he might have remained in complete concealment by the name of Williams. The obſervation, therefore, ſeems to me fairly and ſtrongly to ariſe, his paſsing by a feigned name, is a circumſtance that cannot furniſh, in any degree, the preſumption of a treaſonable purpoſe---becauſe a man with a treaſonable purpoſe, would be uniformly cautious to remain concealed, whereas this man told his name, and who he was, though they would equally have treated with him under his aſſumed character. You find he applied to a great number of perſons to engage a veſſel, in order to convey the perſons whom he mentioned to France. I admit it. The effect of that clandeſtine tranſaction I ſhall preſently obſerve more particularly upon, but deferring it for the preſent, only attend to this one circumſtance, which is moſt material, I mean, that Mr. Binns, in converſation with Mr. Mahoney, who was, I think, the man, by whom he was referred to ſome of the perſons at Deal, diſtinctly told him, in the very firſt converſation, that he did not intend to go to France himſelf. I think I do not miſrepreſent the evidence, if I do I ſhall be obliged to the learned Judge for his correction, and will thank you to correct me if you recollect it otherwiſe,---but Mahoney has ſaid, I think,

that in the converſation he had with Mr. Binns, when he firſt applied to him to aſsit him in hiring a veſſel, he did diſtinctly and particularly inform him, that it was to convey ſome friends, whom he expected at Whitſtable, but that he was not going with the veſſel himſelf. Then ſo far, at leaſt, we get. If the evidence upon the part of the Crown conſiſts in the declaration made by the accuſed, they muſt take that declaration altogether, and then it amounts to deciſive proof, that Mr. Binns was not in the proſecution of that purpoſe imputed to him by this indictment, that is, an intention to go to France in order to convey this paper to the enemy, he not even intending to go to France for any purpoſe whatever. But, Gentlemen, there is, I do not ſeek to conceal it, other evidence given upon the part of the Crown. It appears from one of the witneſſes, whoſe name at this moment I do not particularly recollect, nor is it material, the ſubſtance of the evidence is ſufficient, but it appears from one of the witneſſes, that Mr. Binns told him, after the bargain had been concluded, that he would go with the veſſel, but that he would return in three hours. Now, Gentlemen, there again the evidence given by Mahoney is confirmed by the other witneſs, who is called upon the part of the Crown. And what is the progreſs of the tranſaction but this? When he firſt applies to hire a veſſel, he ſays expreſsly, that he is not going himſelf, but his friends are going; when he finds it neceſſary to depoſit £300 to be forfeited in caſe the veſſel does not return, then he diſtinctly informs the perſon that he will go with the veſſel, and ſhe will not be detained above three hours, and what? that he, Mr. Binns, would return in her. Then what does the caſe come to? The earlieſt evidence and the lateſt teſtimony both agree in this, that it was not the original intention of Mr. Binns to go to France in this veſſel, and that when he did ſtate himſelf to entertain that idea, it was not with an intention to continue in France, but to return to England with the veſſel, he engaging, according to his notion, that the veſſel would not be detained above three hours. I ſay again, therefore, that the charge is diſproved completely with reſpect to the circumſtance of Mr. Binns intending to go to France for the purpoſe of con-

conveying this treaſonable paper, his inducement to go to France not being to carry any paper, but with the ſpecial intention of remaining on board, in order to haſten the return. In every view therefore of the evidence, in every part of the teſtimony, as it relates to Mr. Binns, I think I ſtate the reſult of the caſe fairly, when I aſſert it to amount to this, that inſtead of there being any proof of Mr. Binns being in a conſpiracy to go to France, if this were an indictment for a miſdemeanor for an attempt to go to France, without a licence, you muſt acquit him even of intending that, becauſe in order to eſtabliſh that charge, you muſt prove he intended to remain, not that he went with others for the eſpecial purpoſe of haſtening the return of the veſſel, and not continuing there himſelf.

But there is one, and one other part of the caſe of Mr. Binns only, which requires ſome obſervation, and that is the converſation which he held with thoſe different perſons at the time he applied to them, in order to engage them to let their veſſel to him. And the Attorney General has ſtated in his opening, that Mr. Binns alledged to theſe different perſons that he had the means to inſure her return. Now you will attend to that expreſsion, and ſee how that accords with the evidence. Mr. Binns, ſays the Attorney General, ſtated to theſe different perſons, that he had the means to inſure her return. But what is the evidence? Why, all the perſons have told you, with whom Mr. Binns treated upon this occaſion, that he ſaid, he thought it was probable ſhe would not be detained; that he did not believe ſhe would be detained; that he offered to depoſit a ſum of money in caſe ſhe ſhould be detained; and ſo far from his going the length of aſſerting that he had the means to inſure her return, you find the tranſaction ended in his agreeing to depoſit three hundred guineas, to pay one hundred guineas per month for the time ſhe continued there, and in that proportion during the length of her continuance, the whole to be forfeited if ſhe did not return at the expiration of the time. Inſtead, therefore, of his poſitively aſſerting, that he had any ſuch means, all he ſtated to them was his own expectation of what might happen in caſe the veſſel ſhould carry the perſons he expected at Whitſtable; and the evidence on the part

of the profecution, inſtead of confirming the opening of the Attorney General, diſproves it,—only amounting to this, that Binns made uſe of aſſurances to ſeveral of theſe perſons, as to the probability of what might happen by way of inducement, when anxious to procure, at all events, a veſſel, in order to carry the perſons to Fluſhing or to France, who were afterwards to go on board of her, not that he aſſerted, as a fact, that he himſelf had the means of inſuring her return.

Gentlemen, I have ſtated to you, as far as I have now proceeded, all that ſeems to me to relate to the diſtinct circumſtances of Leary, of O'Coigly, of Allen, and of Binns, and I now come to conſider the caſe of Mr. O'Connor. But, before I proceed to the conſideration of the caſe of this gentleman, I would take the liberty of again recalling to your conſideration, very diſtinctly, what is the nature of the preſent charge?

Gentlemen, the indictment imputes to Mr. O'Connor, to Mr. O'Coigly, and to all the other perſons, that they had a paper of a certain deſcription in their poſſeſsion, and you will recollect the words---in their poſſeſsion---becauſe, before you can find any one of thoſe perſons guilty of that, which this indictment imputes to them, you muſt be ſatisfied, as honeſt men, in the exerciſe of the important and awful duty now caſt upon you, that you can look every one of theſe perſons in the face, and with your hands upon your hearts, on the ſolemn obligation of your oaths, and in the preſence of that juſt God, in whoſe name you are ſworn to adminiſter juſtice, ſay, You had this paper in your poſſeſsion, with the criminal intent alledged by the indictment, at the time you were taken into cuſtody. To this length you muſt proceed; becauſe the main allegation of the indictment, from which all the other facts alledged, follow as conſequences merely, is, the poſſeſsion of all and each of thoſe ſeveral perſons of the paper in queſtion; and unleſs they have proved that poſſeſsion by ſuch evidence as the law requires,---inſtead of having failed, as they have, to prove it by any evidence of any ſort whatever, then, I ſay, you cannot heſitate, for a ſingle moment, in declaring, with the exception of Mr. O'Coigly, whoſe caſe ſtands upon a different ground,

ground, as I have ſtated, that all the other priſoners are not guilty of that which this indictment imputes to them, that is the poſſeſsion of this paper, at the time they were arreſted, with the intention of conveying it to France, in order to deliver it to the enemy. Now, let us examine, in what manner the Attorney General has endeavoured here to make out the caſe.---There is no poſitive evidence pretended to exiſt. For that any one of theſe perſons ever ſaw the paper, or heard the contents of the paper, or even knew of the exiſtence of any paper, there has been no teſtimony attempted to be given upon that part of the Crown, but you are deſired to infer their knowledge of the exiſtence of the paper from the ſingle circumſtance, that they ſay it was found in the poſſeſsion of one of the party, that is, O'Coigly.

But upon what ground is it that the Attorney General argues the caſe to this extent.---Why he ſtates it thus :--- That when any number of perſons are in the proſecution of a common purpoſe, the act of one is the act of all, and I agree that the Attorney General ſtates the law correctly in this reſpect, but the enquiry for your conſideration is as to the common purpoſe ; what was the common purpoſe, in the proſecution of which all theſe perſons were aſſociated ? What was it which they conſpired to do ? Which they conſulted to do ? and which, therefore, conſtitutes the common purpoſe, as to which they were engaged.---This is the point, and the only point for your conſideration. Without denying, therefore, the law, as ſtated by the Attorney General, I ſay, that if he means to apply that law to the preſent caſe, by alledging that theſe perſons were in the proſecution of a common purpoſe, and that it was a treaſonable purpoſe, and, therefore, that the act of one is the act of all ; in ſo alledging, he begs the queſtion, for before he can make the act of one the act of all, he muſt prove the common purpoſe a treaſonable purpoſe, and the treaſonable purpoſe charged by the indictment. But if he does not ſhew this, then, according to the doctrine of the Attorney General himſelf, there is no ground or colour for imputing the alledged poſſeſſion of Mr. O'Coigly, of a particular treaſonable paper, to the other perſons, if the common

purpoſe had no reference whatever to that paper, and therefore they would not be liable for any act done by him, even if the paper was in his poſſeſsion and cuſtody with his knowledge, becauſe engaged with him in the proſecution of a common purpoſe of a different ſort.

I will explain my meaning a little more diſtinctly. Theſe perſons were, I admit, in the proſecution of a common purpoſe, and that purpoſe undoubtedly was going to France; that, I ſtate, was the only common purpoſe; and being in the proſecution of this common purpoſe, I do admit that the act of Mr. Binns, in applying to different perſons to hire a veſſel in order to carry them to France, is evidence againſt all thoſe other perſons of an endeavour made to go to France. But the queſtion is, whether they meant any thing beyond this? or to ſtate the caſe in this way—If one of theſe perſons, who was going to France with the others, had, unknown to the others, this paper in his poſſeſſion, and this paper being in his poſſeſſion conſtitutes an act of treaſon, then, I ſay, that ſuch ulterior purpoſe being unknown to the reſt, is not the common purpoſe, and the act of this man cannot be aſcribed to the reſt, ſo as to involve them in his guilt; for nothing can be more clear than that if five perſons agreed, for different purpoſes, to go to France, it is utterly impoſſible you can ſay that you muſt therefore infer the knowledge of each of theſe perſons of every paper that might be found concealed upon the perſon of any one of them. Therefore this caſe, after all, will come round to the great queſtion, which I originally ſtated, not whether theſe perſons were concerned clandeſtinely in going together to France, but whether they were going to France in the joint proſecution of carrying this paper to the enemy; for if the others were merely going to France, and knew nothing of this paper, then a poſſeſſion by O'Coigly is no evidence againſt them; and how much ſoever it might operate againſt him, it cannot touch their caſe, or affect them in the ſlighteſt degree. I hope, therefore, as far as I have proceeded, I have made myſelf diſtinctly underſtood, and if I have, I truſt you will agree with me, that the obſervations I have hitherto made, are fairly warranted by the facts of the caſe.

Now

Now, Gentlemen, we come to the important queſtion in the cauſe, and that is, whether this paper (no matter, for the purpoſe of the preſent argument, how it found its way into the pocket of Mr. O'Coigly), was there with the knowledge of the reſt. And here, I will aſſume, for the purpoſe of the argument, that the paper was in the poſſeſſion of O'Coigly, with his knowledge; and I will aſſume, for the purpoſe alſo of the argument, what, I truſt, will not be the concluſion to which you will come, that it was there for a treaſonable purpoſe; but aſſuming all this, the caſe of the other perſons differs from that of Mr. O'Coigly in this material reſpect, that the paper, in this view of the ſubject, is actually found in his poſſeſſion, but in his excluſive poſſeſſion, for it is not in the poſſeſſion of any other perſon; therefore the circumſtance, in reſpect of which alone, if you could be diſpoſed to convict him of this offence, the poſſeſſion of the paper, that circumſtance is wanting in the caſe of every one of the other perſons accuſed; nor is there any evidence, either poſitive or circumſtantial, that they knew the paper to be in his poſſeſſion, or of the exiſtence any where of any ſuch paper.

Upon this part of the caſe I beg that I may be diſtinctly underſtood; and let it not be ſuppoſed for a moment that I mean to make the attempt to miſlead any one of you. When I talk of poſſeſſion, which is what this indictment alledges, I will explain myſelf accurately. And here again, that I may ſtate nothing to you in point of law that is not perfectly correct, I will ſtate what I mean, inviting the animadverſion of the learned Judges, if I ſtate it in an improper or an incorrect manner. The indictment has alledged the poſſeſſion of this paper by all the ſeveral perſons at the bar, and from the fact of poſſeſſion, the proſecutors alledge their knowledge, and infer their criminal intention. Now ſee to what this caſe reſults. Firſt, they infer the poſſeſſion of the reſt from the fact, as they alledge, of the poſſeſſion but of one; then they infer their knowledge from ſuch their conſtructive poſſeſſion; and laſtly, they infer the treaſonable intent from their conſtructive knowledge, founded on their conſtructive poſſeſſion; ſo that inſtead of this being a caſe, as the law requires, eſtabliſhed by

plain, direct, and manifeſt proof, it is preciſely the caſe of all others in which the pith and ſubſtance of the charge, the giſt and eſſence of the indictment, is all inference, is all conjecture, is all common argument, is all preſumption. But is it neceſſary there ſhould be an actual poſſeſſion? No; for I admit that poſſeſſion may be of two ſorts. It may be actual, or it may be conſtructive. And by actual poſſeſſion, I mean where a paper is in the perſonal poſſeſſion of any man, with his own knowledge; as, for inſtance, if you ſhould be of opinion that this paper was in the poſſeſſion of O'Coigly, he knowing it to be in his pocket, that would be the actual poſſeſſion of O'Coigly, but it could not be the actual poſſeſſion of any one of the other perſons. Then their caſe muſt be reduced to a caſe of conſtructive poſſeſſion. And here again, I admit that poſſeſſion may become conſtructive, or be inferred from the conduct of the parties. For if all the circumſtances of the caſe ſhew that it was in the poſſeſſion of O'Coigly, with the privity and conſent of the others, in order to be conveyed by him to France, they co-operating with him in that purpoſe, then I admit that his poſſeſſion would be their poſſeſſion, upon the principle correctly ſtated by the Attorney General, that where they all unite in the proſecution of one common purpoſe, the act of one is the act of all. Therefore, in order to make out the conſtructive poſſeſſion in this caſe, it is neceſſary the Crown ſhould eſtabliſh, which they have not attempted, by any poſitive evidence, and which they have not only failed in doing by any circumſtantial evidence, but they have by circumſtantial evidence eſtabliſhed directly the reverſe, that this paper was in the actual poſſeſſion of O'Coigly, with the knowledge of Mr. O'Connor, or with the knowledge of the other perſons at the bar, for the purpoſe of being made uſe of as the indictment ſtates.

But let us examine ſtill more cloſely what are the circumſtances on which they rely. The paper is found, they ſay, in the pocket of O'Coigly. Why, my friend has truly told you, that that which is found in a man's pocket, is generally ſuppoſed peculiarly to belong to himſelf. But I go further, and beg your attention to this, that if the place in which the paper

was

was depoſited, was the pocket of O'Coigly, it was preciſely that, of all others, in which it was leaſt likely to be known to Mr. O'Connor, unleſs you can ſuppoſe that this gentleman, after the character and the account that you have heard of him, was a man of ſuch a deſcription, that he was likely to put his hand into the pocket of another perſon. Its being therefore in the pocket of O'Coigly, would not merely prove that it was in his poſſeſſion, and his poſſeſſion excluſively, but would go the length of proving that it was depoſited in that place, in which, of all others, any gentleman travelling in his company would be the leaſt likely to find it, becauſe no gentleman is likely to put his hand into the pocket of any other perſon.

What are the means by which knowledge of a paper is ordinarily eſtabliſhed? Knowledge of a paper, I admit, is to be inferred from the poſſeſſion of the paper. Again, if any evidence had been given that this paper was in the hand-writing of any of theſe perſons, that would be evidence of their knowledge. If any evidence had been given that they had heard it read, that would be evidence of their knowledge. If any evidence had been given that they had told the contents of it to another, before it was found, that would have been evidence of their knowledge. But none of theſe circumſtances, which are the only facts in reſpect of which you can raiſe the queſtion of conſtructive poſſeſſion, for to be actually or conſtructively poſſeſſed of it they muſt know of its exiſtence, are to be found in the preſent caſe; but you are deſired, from the mere circumſtance of their going to France in company with O'Coigly, to infer their guilt to the full extent of the charge; are to take upon yourſelves, on your oaths, to declare, without, I aſſert it, a ſyllable of evidence, poſitive or circumſtantial, leading to ſuch a concluſion, that the ſingle fact of a paper being found in a place of concealment, to which they had no poſſible acceſs, fixes the full criminality of this paper upon Mr. O'Connor and the others, though they are not proved ever to have known of its exiſtence, though they are not proved to have heard it read, though they are not proved to have told the contents to any other perſon, and though it is abſolutely inconſiſtent, as I ſhall ſhew, with all the other circumſtances of the caſe, all but impoſſible,

impoſſible, I might ſay, that he or they could have any knowledge of this paper having being, up to the moment when it is ſtated to have been found. For conſider who theſe perſons are, the circumſtances which attended the diſcovery, and the evidence which has been given.

You find that Mr. O'Connor had a great number of packages belonging to himſelf; that he had papers of his own in thoſe packages, under lock and key; I aſk, then, can you believe it of a man like Mr. O'Connor, who has been accuſtomed to the buſineſs of the world, who has long lived in public life, who has acted a great part upon the political theatre, who is repreſented to you to be a man of a mind uncommonly acute and intelligent, can you ſuppoſe it poſſible that he could prove ſuch an idiot and driveller, that having knowledge of a paper of this treaſonable ſort, though he had concealed with the moſt cautious care, others, of a nature which they have not ventured to alledge, even as overt acts in this indictment, though he had hidden every other ſcrap of paper that belonged to him, can you, I ſay, all this being proved, believe, that knowing the exiſtence of this paper, when diſcovery muſt prove ſo fatal, he would have truſted it to the poſſeſſion of O'Coigly, to be found in a looſe cover in his pocket, in an open great coat, in the common room of a public inn?

Such is the ſort of intelligent mind Mr. O'Connor is proved to poſſeſs! and this you are deſired to believe was his conduct when plotting the downfall of a State. According to them, he went out of this country expreſsly to invite the French to invade it, by the poſſeſſion of a paper, which paper he knew, if diſcovered, would lead to his certain deſtruction, and which, however, turns out to be the only paper which at all concerns him, which is proved not to have been under his own charge, or in his own cuſtody, ſecured in his own packages by his own key. It is impoſſible to come to ſuch a concluſion. Reaſon revolts at the idea! feeling ſickens at the thought! It would be nothing ſhort of a judicial murder, according to the light in which I view this caſe, if it were poſſible for any man to convict Mr. O'Connor, and the others, of the poſſeſſion of

this

this paper, under the circumſtances I have fairly ſtated. When I ſay this, it does not ariſe from any diſtruſt of you, either on my part, or on the part of the priſoners at the bar. Quite otherwiſe. Next to him in whom we are chiefly taught to put our truſt, their firm reliance is upon you, in this, the awful hour of their deliverance. But I am a plain man, ſpeaking to plain men, and it is neceſſary to ſpeak plainly when the lives of men are at ſtake. Plainly, therefore, I ſay, it is groſsly repugnant to every idea of juſtice, to ſuppoſe that if this were the caſe of a common miſdemeanor, inſtead of a charge of High Treaſon, you would infer the privity of theſe ſeveral perſons, to the poſſeſſion of this paper, on ſuch evidence.

But, Gentlemen, conſider further how the caſe ſtands in another reſpect. And here again the conduct of Mr. O'Coigly becomes material. You find that he had been told the people of Whitſtable entertained ſuſpicions on his account; you find alſo, that he was in company with Mr. O'Connor ſubſequent to this; now, I aſk you, whether it is reaſonable to believe that if O'Coigly had been joined in a conſpiracy with Mr. O'Connor to carry this paper to France, he would have ſuffered Mr. O'Connor to have remained ignorant of ſuch a circumſtance? or is it probable that Mr. O'Connor, knowing of ſuch a circumſtance, and having a paper in his own poſſeſſion, or in that of O'Coigly, of a treaſonable nature, would have delayed one moment to have deſtroyed it, after the alarm was given, and diſtruſt was known to exiſt. But, inſtead of this, you find all Mr. O'Connor's packages continued locked; nothing is put into them, and nothing is removed; no attempt is made even to ſecrete the paper in queſtion, but you find his boxes continued exactly in the ſame ſtate they did before; and when they are taken up to the ſecretary of ſtates office, the locks of each are obliged to be forced, in order to get at the contents. So with reſpect to all the other priſoners. When their luggage and pockets were ſearched, there is nothing found that relates to this paper, nor is there any paper of any other ſort, excepting one belonging to Mr.

O'Connor

O'Connor, upon which I ſhall preſently obſerve, but no paper of any ſort or deſcription, which has the moſt remote relation to that which forms the ſubſtance of the preſent charge.

I have now, therefore, in reſpect of all extrinſic circumſtances, I truſt, completely ſatisfied you, that it is quite impoſſible, even if this were a charge for a common miſdemeanour, and not a trial for High treaſon, to come to any ſuch concluſion, as that Mr. O'Connor and the others, whoſe caſe ſtands upon the ground of conſtructive poſſeſſion, knew of the exiſtence of this paper; but quite the reverſe. And now, before I go to the conſideration of the paper itſelf, I will take the liberty of troubling you with one or two obſervations only, upon ſome other parts of the caſe, as they relate to Mr. O'Connor alone. And firſt, gentlemen, you will always bear in your minds that the charge againſt theſe perſons is the poſſeſſion of this ſpecific paper, which conſtitutes the act of treaſon alledged; and that the other papers which have been produced before you, have been given in evidence only as collateral circumſtances, to prove the overt-act alledged; that is, the poſſeſſion of the paper. But the moment that you diſbelieve the poſſeſſion of this paper, even if the other circumſtances were of a different nature from what they are, and amounted in themſelves to overt-acts of treaſon, yet, inaſmuch as they would be overt-acts of treaſon not alledged in the indictment, you could not find them to be ſuch upon this occaſion, and therefore, with the overt-acts laid in the indictment, all the other overt-acts muſt vaniſh of courſe—if any ſuch exiſted, for they would be made uſe of as evidence only, and not as matter of charge. Of theſe collateral circumſtances, are ſome papers found in Mr. O'Connor's poſſeſſion. And that to which your attention has been chiefly drawn, is a cypher with the key to it. And here again it is neceſſary, in order to underſtand this part of the caſe, to conſider who Mr. O'Connor was, and what had been his former habits of life. You find that Mr. O'Connor had taken a very active part in the politics

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of Ireland, whether right or wrong, is not the ſubject of the preſent enquiry; but one fact is perfectly clear, that in conſequence of that active part, that he had been confined there, during a long ſpace of time, in the gaol of Dublin, as you have heard from the gaoler who had the charge of him, impriſoned and guarded in the ſtricteſt manner; and upon being liberated from that confinement, which he was, without any trial, Mr. O'Connor ſhortly after came over to this country.

On the part of the Crown, I admit they have given in evidence a paper which is a cypher, and have alſo produced a key to that cypher; and I do not deny that it diſtinctly appears, from theſe documents, that Mr. O'Connor was going to France; but I undertake to ſatisfy you upon this part of the caſe, deemed ſo peculiarly important in ſupport of the charge, as well as upon every other circumſtance in proof, that when this cypher comes to be attentively and accurately conſidered, it is, of itſelf, the ſtrongeſt and moſt concluſive evidence to deſtroy even the poſſibility of a ſuſpicion of the exiſtence of any intention, on the part of Mr. O'Connor, to carry this paper to France, in order, as the charge alledges, to invite the Executive Directory to invade England. And firſt, I will ſuppoſe I could not account for the poſſeſſion of this cypher, in any way whatever, by extrinſic circumſtances. What then? Why you have been truly told, that the poſſeſſion of a cypher is not of itſelf Treaſon, nor is it even criminal in any degree. The only proper uſe, therefore, that can be made of it is, as a circumſtance in evidence, aſſiſting the other facts in the caſe, to prove the overt-acts in the indictment. They muſt connect the cypher with the intention alledged, to procure an invaſion of England, and if they can ſo apply it, it may no doubt be conſidered as material evidence to that purpoſe.

The queſtion then is, conſidering the intended application of this cypher, does it apply to England or to Ireland? For if it applies to Ireland only, there is an end of the charge which imputes to Mr. O'Connor an intention, by means of this cypher, connected with the paper in queſtion, to procure an invaſion of England. Now what are the contents of the cypher? Look at it, examine it thoroughly, and I entreat of you,

you, before you withdraw, again and again, to conſider it, with this particular view, always recollecting that the charge againſt Mr. O'Connor is, his intending to invite the French to invade England, not Ireland. Why, Gentlemen, you would naturally ſuppoſe, that in the caſe of ſuch a cypher, intended for ſuch a purpoſe, you would find little, if any, which related to Ireland, and much, if not all, which related to England; inſtead of which, when you examine the contents of the cypher, you find a long ſtring of ſea-port towns all on the coaſt of Ireland, and none of the ſea-port towns upon the coaſt of England, with the ſingle exception of Dover, which I truſt it will not be contended, upon the part of the Crown, is preciſely the ſpot, and the only ſpot, upon which we are to expect an invaſion from France. It ſeems to me that the obſervation is therefore irreſiſtibly ſtrong, and abſolutely concluſive, that this cypher did not relate to any purpoſe as to England, but that it related to Ireland, be the purpoſe what it might; becauſe all the different places which form the ſubject of the cypher, and would be of courſe the matter of correſpondence, are, to a degree of minute and circumſtantial detail, the ports of Ireland, and not of England. Therefore, if I could not account, from the character and purſuits of Mr. O'Connor, from the habits of his public life, from the circumſtance of the times rendering neceſſary the uſe of a cypher, and if it reſted upon the mere ground of what you can collect from the cypher itſelf, and if you were required to ſay one way or other, which you ſuſpected as matter of common belief, I am certain you would, without heſiation, declare it does not relate to England, but to Ireland; and therefore the cypher is deciſive and concluſive evidence, to ſhew that it could not be in the contemplation of Mr. O'Connor, to make uſe of this cypher, with reference to an invaſion of England, becauſe the ſubject of it is Ireland, and not England, and yet this is the important paper on which the Attorney General, in his opening, mainly relied, to prove Mr. O'Connor guilty of this charge.

But the caſe does not reſt here: the counſel for the Crown have given you that which tends in a conſiderable degree to explain

plain the poſſeſſion of ſuch a paper. Mr. O'Connor, beſides being a public man in Ireland, and in this country, having been formerly in the Iriſh Houſe of Commons, was alſo, as you have been informed, the proprietor of a newſpaper called the Preſs. And here again, for I cautiouſly forbear introducing political topics of any ſort into this queſtion, putting the merits of the Preſs as a political paper, out of all conſideration, it is enough to ſay, that it was a public and political print of great circulation throughout Ireland. Gentlemen, when Mr. O'Connor had been obliged to fly from Ireland, becauſe it was unſafe for him to continue there, no one can be ſo weak and ſo ſilly as to believe, that if Mr. O'Connor had correſponded in his own name, and openly at all times, if he had tranſmitted intelligence to his private friends, or to thoſe who conducted this print, that his letters would not have been occaſionally ſtopped and opened; I do not ſay improperly opened, I ſtate merely the fact. To be the proprietor of a newſpaper, to any effect, it is neceſſary to impart intelligence to thoſe on the ſpot who conduct that paper. This accounts for Mr. O'Connor's being in poſſeſſion of a cypher, and it alſo explains why that cypher had relation to public events. When he was to correſpond with thoſe who conducted the Preſs in his abſence, with reſpect to the public ſituation of England, France, or Spain, and probable, or actual events of a public nature, it was neceſſary he ſhould correſpond in cypher, if he did not mean to have his letters intercepted, underſtood, and his intelligence diſcovered. That he was in the habit of tranſmitting information for the Preſs, is proved on the part of the Crown, for they have given in evidence a letter to Mr. Roger O'Connor, in which he mentions the Preſs, and ſtates a tranſmiſſion of the Courier, which is one of our papers, for the purpoſe of furniſhing intelligence for the Preſs. This alone reaſonably accounts for his being in poſſeſſion of a cypher; but further, being a public man, and obnoxious to Government, liable to have all his private letters ſtopped at the Poſt Office, and in the habit of correſponding with his friends as to public affairs, he did not chooſe, with the probability of that event,

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in caſe they ſhould be actually ſtopped and intercepted, that the contents of all his private correſpondence ſhould be known.

But upon this part of the caſe I will pauſe for a moment—and when this proſecution has got to its cloſe, I requeſt you, Gentlemen, who are now honouring me with a degree of attention, for which, upon the part of the priſoners, and myſelf, I moſt humbly and moſt gratefully return you thanks—I requeſt every one of you, when this caſe has got to its concluſion, to conſider whether I have not, as far as I have troubled you with any obſervations, ſubmitted thoſe which fairly ariſe out of the facts of the caſe, and I only deſire of you ultimately to let them have effect, as they agree or differ with the obſervations which may have ariſen in your own minds. Subject, then, to this remark, I think, as far as I have gone, that I have accounted for the nature of all thoſe circumſtances, which, on the part of the Crown, are ſaid to be myſterious. But I go further, and ſay with my learned friend, that if they are myſterious, preciſely for that very reaſon you are not to conclude that they are criminal, for criminality muſt diſtinctly appear, inſtead of facts myſterious, or doubtful, or dark. I have explained them ſatisfactorily; I truſt I have. But ſuppoſe the explanation, for a moment, not to be ſatisfactory—Admit them to be myſterious ſtill. What is the effect of a caſe in which there are ſome circumſtances that cannot be developed, that cannot be explained, and which at laſt remain the ſubject of conjecture, of doubt, of myſtery? And to anſwer this queſtion, I will refer you to the words of a very learned Judge, peculiarly converſant in the adminiſtration of criminal law, and equally diſtinguiſhed for his humanity and for his knowledge; I mean the words of Lord Chief Juſtice Eyre upon a very recent occaſion, the trial of Mr. Horne Tooke. In the cloſe of his addreſs to the Jury, the Chief Juſtice expreſſes himſelf in theſe words:—'If you ſhould be of opinion that notwithſtanding the firſt impreſſion which theſe circumſtances have made upon your minds, and muſt I think certainly make upon every man's mind who has heard the caſe, conſidering the nature of the enterprize, and conſidering the actual ſituation of the means by which it was to be effected, taken together with

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'the evidence of his principles, his habits of life, and his ſitu-
'ation in point of health, that you are bound to refer all theſe
'tranſactions to other objects, and you ſhould conclude to form
'your judgment, as to his intent in theſe meaſures in which he
'has been engaged, rather from theſe domeſtic parts of his
'character, than from thoſe in which he has acted with others
'in public;' and, Gentlemen, the very laſt important and em-
phatic words which he addreſſed to that Jury, were theſe which
I am now about to ſtate to you:—'I wiſh heartily that Mr.
'Horne Tooke had put this caſe really beyond all ſuſpicion,
'becauſe I ſee, with great regret, a man of his cultivated under-
'ſtanding, of his habits, of his capacity, to be uſeful to man-
'kind, a man ſupported by the evidence of that venerable pre-
'late the Biſhop of Glouceſter, who I am ſure would flatter no
'man; I ſay, I ſhould have been heartily rejoiced if he could
'have put this caſe beyond all ſuſpicion, but I cannot ſay that
'he has done ſo. There certainly is a great deal to be ex-
'plained, which I am not able to explain, and I am at this mo-
'ment totally unable to develope the character and conduct of
'this gentleman'—but that does, what? 'But that' (ſays Lord
Chief Juſtice Eyre) 'goes but a little way upon the queſtion,
'whether he is guilty or innocent of this indictment; that you
'will judge of by the reſult of the evidence, and the clear im-
'preſſion that that reſult ſhall make upon your minds.'—Im-
portant words! containing the ſound principles of juſtice and
humanity. Apply them to this caſe; and, therefore, if I were
to admit that all theſe circumſtances which are not the overt-
acts charged in the indictment, are of a nature which after all
cannot be developed and explained, that they ſtill remain ſuſ-
picious and myſterious, ſtill I am entitled boldly to ſay to you,
this goes but a little way to maintain the charge. A verdict of
guilty muſt be the reſult of a clear impreſſion made by con-
vincing evidence on your minds. But what is this caſe? Not
like the caſe which I have juſt ſtated to you—a caſe, the reſult
of which in the cloſe of a moſt long and patient inveſtigation,
ſtill left in the mind of that learned Judge, a high degree of
ſuſpicion as to many circumſtances. No, Gentlemen, the pre-
ſent is a caſe, as far as I have gone, clear, I will venture to ſay

upon every principle of law, reaſon, and juſtice, againſt the charge. But putting it in the ſtrongeſt point of view for the proſecution, allowing them the benefit of every obſervation that may be made in reply, that theſe parts of the caſe have not been ſatisfactorily cleared up; firſt I aſſert they have, but next, if they have not, then I ſubmit they are not the overt-acts charged, they are but adduced as evidence to prove thoſe acts, and however ſuſpicious, however myſterious they may be deemed, which I ſay they are not, yet ſtill according to the language of the learned and humane Judge, who tried the cauſe to which I have alluded, that goes but a little way towards the queſtion of guilt. To juſtify ſuch a verdict, the reſult muſt be, not a doubtful, but a clear impreſſion.

Now, Gentlemen, I come, and here I ſhall detain you very ſhortly, to the conſideration of the paper itſelf. And upon this part of the caſe, I ſhould think that I certainly conducted myſelf with the greateſt indiſcretion, and that I was doing the moſt eſſential injury to the caſe of every one of the perſons now under trial, if I were to ſay much after the obſervations which you have heard from my learned friend. His addreſs to you no human ability can ſurpaſs, and certainly I ſhould be the moſt arrogant of men, if I were to preſume for a moment to think I can poſſibly ſtrengthen it. On this part of the caſe I ſhould therefore at any rate have troubled you with very little obſervation, but that obſervation is rendered ſtill leſs neceſſary from the evidence that has been given by all the reſpectable perſons who have been called.

Gentlemen, Mr. O'Connor is proved to have been a man, who, up to within a few weeks of the time of this tranſaction, had reſided chiefly in Ireland; a man of rank, a man of family there; the nephew of Lord Longueville; a repreſentative, in the Iriſh Houſe, of one of the boroughs in that kingdom; and having ſerved in the ſame parliament with Mr. Grattan, who has been examined this day, and in the courſe of that ſervice, having undoubtedly delivered his ſentiments on one occaſion in particular, in a manner to do immortal honour to that intelligent mind, of which the moſt competent of judges have ſpoken in the manner you have heard. Such is

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Mr. O'Connor; and you have it in evidence from all thoſe with whom he has been, and ſtill is moſt intimately acquainted, that the prevailing ſubject of his conſideration, the conſtant object of his thoughts, what Lord Chief Juſtice Eyre aptly calls the habits of his life, were peculiarly the habits of Iriſh politics, and of whatever related to that country. There all his thoughts revolved, there all his wiſhes centered. Mr. Sheridan has told you, that in the moſt confidential converſations that he held from time to time with him, ſo occupied was he, ſo intent, ſo engroſſed, ſo abſorbed with the ſtate and ſituation of Ireland, that he could not bring him for a moment to believe there was any thing of grievance exiſting in this country, that is, to accede to the opinion, which in this reſpect Mr. Sheridan entertained with reſpect to it. Theſe, then, are the habits of life of Mr. O'Connor: you have it from Mr. Erſkine, from Mr. Fox, from the Earl of Suffolk, from the Duke of Norfolk, from all the noble and honourable perſons who have been called. They have told you, without a ſingle exception, that in the courſe of the numerous confidential converſations, during a long period of time, up to the moment of his departure, the conſtant ſubject of theſe converſations, whenever of a political nature, was Ireland and not England; nay, that they even found an averſion to interfere with the concerns or politics of England, where his property was not, where his reſidence was not, a people with whom he was no otherwiſe connected, except by habits of private and domeſtic friendſhip with many individuals, undoubtedly, of the firſt private and public conſideration. Theſe then were the habits of his political life.

But with whom was Mr. O'Connor connected in England? Were his friendſhips with Adminiſtration or with Oppoſition? With the latter you can entertain no doubt, for we have called all the moſt diſtinguiſhed perſons who commonly paſs by that deſcription. Gentlemen, you will fairly conclude, when you find Mr. O'Connor aſſociating with Oppoſition, men out of place, that he could not have an intereſted motive in doing it: if his attachment had been to perſons now in Adminiſtration, it might at leaſt have been contended, he was a candidate for a

place and emolument; but when you find him aſſociated with men, who have it not in their power to beſtow any favour, or to afford any promotion, you muſt be certain that they are the men of his choice, that they are the friends of his heart. Then let us for a moment conſider what is the ſort of paper in queſtion. The charge againſt Mr. O'Connor is, of a foul and wicked conſpiracy to induce an invaſion of England. If the charge againſt him had been, that he was going over to the French to induce them to invade Ireland, upon general principles, at leaſt, it would have been leſs improbable. But how it can be ſuppoſed that Mr. O'Connor, who came over to England from Ireland, quitting the latter, ſtung with what he deems the ſenſe of injury, ſhould the moment he arrived in England, enter into a plot to induce the French to invade England only, about which he cared nothing, and forget all that related to Ireland, about which alone he cared up to that moment, how this can reaſonably be ſuppoſed, I own I cannot poſſibly conceive. But this is not all; you will attend to the manner in which this paper is worded: it purports to be a paper from the Secret Committee of ENGLAND, to the Executive Directory of France, and it ſtates—'Go on, ENGLISHMEN will be ready to ſecond your efforts:' it continues—'already have the ENGLISH fraternized with the Iriſh and the 'Scots, and a delegate from each now ſits with us; the ſacred 'flame of liberty is rekindled; the holy obligation of brotherhood is received with enthuſiaſm; even in the fleets and the 'armies it makes ſome progreſs; diſaffection prevails in both, 'and United Britain burns to break her chains.' Then again it ſays—'United as we are, we only wait with impatience to 'ſee the hero of Italy, and the brave veterans of the great 'nation—myriads will hail their arrival with ſhouts of joy.' In another place it ſays—'ENGLISHMEN are no longer blind 'to their moſt ſacred claims.' So that, Gentlemen, you ſee, that in every part of this paper, which is a paper purporting to be an invitation to the Executive Directory of France to attempt an invaſion, it is an application by Engliſhmen to invade England, and there is not a word with reſpect to the diſcontents of Ireland, the diſtreſs of Ireland, the diſaffection of Ireland,

land, much leſs an invitation to the French to attempt an invaſion of that country. I aſk you, is it poſſible to believe, that Mr. O'Connor would quit this country, would leave with a bleeding heart thoſe numerous perſons with whom he was in the habits of the cloſeſt and fondeſt friendſhip, for no other earthly purpoſe, than the moment he got to France, to induce the French to invade England, though if he had any grievances to complain of, their ſeat was Ireland, and in England only were his enjoyments to be found. But I will not enlarge further upon the improbability of this part of the caſe of which my friend Mr. Plumer has already ſaid ſo much. Since then you have heard a deſcription of Mr. O'Connor in words which I will not attempt to repeat; that he is a man, frank, open, ingenuous, ſincere; a man affectionate, ardent in his friendſhips; that he poſſeſſes great ſimplicity and openneſs of character; a romantic ſpirit of honour, ſaid Mr. Erſkine, is the characteriſtic of his mind. But of ſuch a man it is you are deſired to believe, that he would go to France with a paper, pointing out unneceſſarily as the objects for foreign enmity and deteſtation, perſons with reſpect to whom I ſolemnly declare I believe he would willingly lay down his life to avert from any of them any ſerious evil. Yet theſe are the only perſons whom you are to believe, without a motive aſſigned, are the men pointed out, deſignated by Mr. O'Connor in this paper, as the objects of proſcription and deſtruction, the moment that a landing ſhould be effected upon the ſhores of England; but as to Ireland and his enmities there, the paper is ſilent altogether. And, Gentlemen, of whom are you required to believe this? Of a man, with reſpect to whom Mr. Sheridan has diſtinctly told you, that in the courſe of converſations of the moſt confidential ſort, he has always collected from him, that it was the fixed ſentiment of his mind, that whether it was England or Ireland, no foreign power had a right to interfere with the government of another country; that invaſion was an event not only to be deprecated and abhorred, but to be reſiſted to the utmoſt whenever it might happen. This is not, therefore, a caſe which ſtands merely upon his general habits and principles, but as far as you can get at the interior of his mind, as

far as you can ſearch his inmoſt ſoul, upon the ſubject of his political opinions, in this particular reſpect, delivered in his moſt unguarded and confidential moments, you find him a determined enemy to invaſion, no man more ſo, no not even Mr. Sheridan himſelf, who has ſo lately returned to the Houſe of Commons, chiefly to induce all perſons, with one heart and with one ſpirit, to arm, to reſiſt to the utmoſt, the threatened invaſion of a daring enemy. No, Gentlemen, not even Mr. Sheridan himſelf, who has lately maintained theſe ſentiments from motives moſt honourable to himſelf, and I hope they may prove beneficial to his country, is a more decided enemy than Mr. O'Connor to an invaſion of this country by France.

But it will be aſked, why was Mr. O'Connor going to France? And ſuppoſe I could not explain this, would you therefore infer that his purpoſe was Treaſon? The law warrants no ſuch concluſion, quite the reverſe. The going to France without a licence is, by a particular Act of Parliament, made a miſdemeanor, puniſhable by an impriſonment of ſix months. It would be abſurd to ſay, that in a caſe in which the law puniſhes the guilt, by an impriſonment of ſix months only, that the law raiſes the preſumption of Treaſon; on the contrary, the law excludes it. If there were no particular cauſe, therefore, to account for his going to France, ſo the caſe would ſtand in this reſpect. But what is the evidence as to this point? You have heard the account given by Mr. Erskine. Indeed all his friends agree in telling you, that Mr. O'Connor was anxious to remain in this country. He was living happily here, honoured, reſpected, beloved by all. Witneſs the ſplendid teſtimony that has brightened his character in this the eventful hour of his trial! living happily in England, he would have wiſhed to have continued here. But why did he go? Mr. Erskine has diſtinctly told you. And who is Mr. Erskine? an obſcure man—a man ignorant of his profeſſion—a man likely to miſlead him! Who will ſay this of one, than whom there does not exiſt, in this or in any other country, a perſon of higher honor, or more diſtinguiſhed talents. I was the man, ſays Mr. Erskine, who adviſed Mr. O'Connor inſtantly to quit this country, to get out of it by any means. The

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Attorney General would not permit him to explain why, and of this I do not complain, for it would not have been evidence. To what then does the caſe reſult? By the advice of the perſon, whoſe advice, of all others, it was the moſt proper for him to take, by the advice of Mr. Erskine, by whom he is told it is unſafe for him to continue here. Acting under that advice, he attempts to go out of the country; in attempting it he is found, without any treaſonable paper about himſelf, in the company of a man who is charged to have had in his poſſeſſion a treaſonable paper; and in reſpect of that paper, though not in his own poſſeſſion, nor the ſlighteſt evidence given that he knew of it, you are deſired to impute Treaſon to him.

But there yet remains one circumſtance upon the face of the paper itſelf, which, in addition to all the other facts obſerved upon, is abſolutely concluſive to ſhew that Mr. O'Connor muſt have been completely ignorant of its exiſtence. The deſign imputed to Mr. O'Connor is a conſpiracy, together with the other perſons who are upon their trial with him, to obtain the poſſeſſion of this paper, in order to carry it to France. It imputes, therefore, a deſign, a conſpiracy, a plot. And here dates are material. Gentlemen, you find that Mr. O'Connor arrived in England ſome time about the 7th of January; the converſation with Mr. Erskine is fixed to have paſſed about the 21ſt of that month. Attending to this, I beg your attention to this introductory part of the paper in queſtion: "Citizens "Directors, we are called together," how? "*on the wing of the* "*moment*, to communicate to you our ſentiments. The citizen "who now preſents them to you, and who was the bearer of "them before, having *but a few hours to remain in town.*" So that this deſign, this plot, the reſult of deliberation, of contrivance, which one would think muſt have been long in hatching, and ſlow in maturing, you find, inſtead of its being a tranſaction of ſuch a ſort, the paper expreſsly ſtates, that they are called together "*on the wing of the moment*, the citi- "zen who is to bear this having *but a few hours to remain in* "*town*;" concluſive, I contend, to ſhew that the writing this paper muſt have been a caſual thought, the reſolution of the moment, by whatever perſon or perſons the paper might be

compoſed. The wing of the moment! and but a few hours to remain in town! Why, Gentlemen, what is the caſe proved? You find, by the teſtimony of Mr. Bell, that for many weeks before Mr. O'Connor went to Margate, he had been endeavouring to get out of the country. You find, that in converſation with Mr. Erskine, long before the time in queſtion, he had adviſed him no longer to continue here. How then can a paper, evidently referring to a caſual circumſtance, to an accidental opportunity which ſnatches at the paſſing moment, which ſeizes upon the wing of the occaſion, how can you ſay that ſuch a paper can apply to the caſe of Mr. O'Connor, who long had formed the project, and long had entertained the intention, of going to France, whenever an opportunity of any ſort might occur? This is proved by all the evidence in the cauſe, Mr. Erskine, Mr. Bell, Mr. Sheridan; by the evidence of the written documents; for, in a letter which he writes to Lord Edward Fitzgerald, this expreſſion occurs: "He has been moſt "active to try and get away from his creditors, but they ſo "watch him, *and this embargo by the enemy makes it moſt diffi-* "*cult;*" a difficulty which accounts for the circumſtance of Mr. O'Connor afterwards taking the ſteps he did. From the contents then of the paper, the perſons to whom it was addreſſed, the ſubject of it, the moment at which it was written, the bearer to whom it alludes, the perſons pointed out, the invitation to invade England and not Ireland, I defy any perſon to depart out of this court, putting all theſe circumſtances together, with any other than the moſt ſincere and perfect belief, that Mr. O'Connor was altogether ignorant of the exiſtence of ſuch a paper, and in no reſpect whatever engaged in the foul plot of going over in a veſſel, in order to convey it to France, to induce an invaſion of this country.

But, Gentlemen, in addition to what I have already ſtated, my friend reminds me, that there is alſo this fact proved upon the part of the Crown. They have called all the different perſons who were the tradeſmen employed by Mr. O'Connor, and thoſe perſons have told you, that his orders were executed, in moſt inſtances, a conſiderable time before he went from London. It is therefore clear that Mr. O'Connor, inſtead of

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being a perſon who had but a few hours entertained this intention, had entertained it almoſt from the time when he arrived in England, and was at laſt induced to proſecute it, under the ſpecial advice, and by the direction, of Mr. Erskine.

Gentlemen, I have now gone through all the circumſtances of this caſe, by making ſuch obſervations as occurred to me; and the progreſs of the argument which I have humbly offered to your conſideration has been this:

In the firſt place, I ſay, that the overt-act in this indictment, on which the whole charge depends, the poſſeſſion of the paper, is not proved by any poſitive evidence; In the next place, I ſay, that inſtead of being proved by any poſitive evidence, it is diſproved by all thoſe circumſtances of the caſe, from which the Crown would wiſh you to draw the concluſion, that Mr. O'Coigly had it with the knowledge of the others; ſo that if this were a caſe in which you could convict upon common inferences, upon common preſumptions, and upon common argument, without plain, direct, and manifeſt proof, the common inferences, the common preſumptions, and the common arguments, are all completely in favour of the perſons accuſed, with the exception of O'Coigly, whoſe caſe ſtands, as I ſaid before, upon its ſpecial ground; but the conſtructive caſe, with regard to the other perſons, is completely diſproved by thoſe very circumſtances relied upon to eſtabliſh it on the part of the proſecution.

Gentlemen, I truſt you will do me the juſtice to recollect, that in all I have addreſſed to you, I have endeavoured, cautiouſly, to apply my obſervations to your reaſon only. I have not attempted, in any degree whatever, to intereſt your feelings, or to raiſe your paſſions; I might have done it if I had thought proper. For the practice of courts of juſtice in this country, ſimilar to thoſe of every other civilized ſtate, the laws of humanity being every where the ſame, permit the exertion of thoſe arts to the advocate for the accuſed, whilſt they are rigorouſly forbidden to the counſel for the proſecution. But I have abſtained from even making the attempt, and I will tell you why; becauſe it ſeems to me, that theſe are arts at beſt adapted to a doubtful caſe, and this is a caſe upon which

I enter-

I entertain no doubt, but I am perfectly confident, that when you come to conſider all the circumſtances which belong to it, you will feel no heſitation in ſaying, that there is not even a colour to impute to Mr. O'Connor, to Mr. Binns, to Allen, and to Leary, any knowledge whatever of the exiſtence of ſuch a paper, much leſs that they were employed in procuring a veſſel in order to carry them to France, to communicate it to the French Directory, in order to invite them to invade this country.

Gentlemen, of all this it is undoubtedly for you to judge; and in the courſe of a very few moments, comparatively ſpeaking, you will be called upon to ſay whether the ſeveral perſons who are now before you ſhall live or die. It is an awful conſideration, and hear the prayer which fervently I make. May that great Judge, before whom we muſt all appear one day for trial, fill your hearts, upon this occaſion, with that mild ſpirit of benevolent juſtice which we are taught humbly to hope we may expect from him! May he incline your minds to that ſure and ſafe concluſion, that when hereafter it may happen, as oft it muſt, that you ſhall meditate and reflect upon the event of this day, your verdict may be ſuch as ſhall prove to yourſelves the ſource of comfort in life—of conſolation in death—of happineſs here—of hope hereafter!

Mr. Juſtice Buller asked the priſoners if they choſe to ſay any thing themſelves in their own defence?

James O'Coigly. I cannot prove a negative; I think it is a ſerious duty I owe to myſelf, my country, and you, Gentlemen, in the awful ſituation in which I ſtand, to declare moſt ſolemnly, in the preſence of my God, that I never was the bearer of any letter, addreſs, or meſſage, to the Directory of France, or to any perſon for them, at any period of my life, and that this paper, this abſurd and ridiculous paper, is not mine. This paper ſtates, that the bearer of it is the ſame perſon that carried the laſt; I certainly carried no paper, I diſclaim it utterly; but it is a fact that ſurely would admit of poſitive evidence, though I could not prove a negative; that

positive evidence has not been given, it could not be, for no such fact existed. As there were allusions made also to political societies in this Country, Gentlemen of the Jury, I declare, in the same solemn manner, that I am not, nor ever was, a member of any political society, or attended them, in this country, so help me God. With these considerations I consign my life to your justice, not doubting in the least but you will, by your verdict, acquit yourselves as English Jurors, to your Country and to your God.

Mr. Dallas. Gentlemen of the Jury, there is a single observation which I forgot to state. There is an expression in the letter addressed to Lord Edward Fitzgerald, "that when "he got to Williams he would be active there." You will recollect the evidence of Mr. Fox, that Lady Fitzgerald had property in France, and that Lord Edward Fitzgerald, some time ago, had it in contemplation to go over to obtain that property.

John Binns. Gentlemen, when I reflect upon the evidence which has been laid before you, and the manner in which that evidence has been explained and commented upon by my counsel, who have this day so ably and eloquently defended me, I should consider it rather to be an insult upon your understandings and your discrimination, to trouble you with any observations upon my own case, conscious as I am of my innocence.

Mr. Arthur O'Connor. I have been so ably and so eloquently defended by my counsel, that I shall not trouble the Jury with a single syllable upon the occasion; I will leave them entirely to themselves, and to your Lordship's summing up.

John Allen. I don't think myself called upon to say any thing; I don't think it necessary, for I don't see any thing like evidence to affect me.

Jeremiah Leary. The Jury may do what they like with me.

REPLY,

REPLY.

MR. ATTORNEY GENERAL.

Gentlemen of the Jury,

I truſt that I cannot poſsibly ſo far forget the nature of thoſe feelings, which ought to influence every Engliſhman's heart, and the nature of thoſe principles, which ought to regulate my conduct in the diſcharge of my duty, as not to concur in repreſenting to you, with the counſel for the defendants, that this Cauſe is unqueſtionably a Cauſe of the utmoſt importance. In the opening I did not preſume to aggravate before you, the nature of the offence, which the indictment imputed to the priſoners, becauſe, though I recollect, with whatever confidence I may feel that Britiſh valour will defeat the efforts of any foreign Enemy, that dares to invade this Country, that every ſuch effort muſt be attended with a great effuſion of Britiſh blood, and that therefore the Wiſdom and Policy of the law has placed the offences, which are charged in this indictment, in the higheſt claſs and rank of criminal offences, known to the Law of England. I recollect alſo that the iſſues of the life and death of each and every of theſe priſoners is in your hands; and I am quite ſure that no ſtep can be taken, more eſſential to the ſafety of this Country than this, namely, to demonſtrate, in the verdict of every Britiſh Jury, that the Law of the Country has a deep and ſacred concern for the lives of all the ſubjects, that live under it.

Gentlemen, If the obſervation, which fell from my learned friend, who addreſſed you laſt, was juſt, (in ſome degree I admit that it was juſt, though I think his own conduct was a diſcharge of his profeſsional duties, more correct in its principle,) when he intimated that the counſel for the defendants might uſe ſome arts in diſcharging their duty towards their clients, but that he would not think it conſiſtent with his view of his duty to his clients in this particular caſe ſo to conduct himſelf, I am ſure I need not ſtate before you, and in the preſence of the country, that I am not to riſe upon this occaſion as an Advocate, having any zeal for the event of this cauſe, but

bound,

bound, in the diſcharge of my official duty, to ſtate for your conſideration thoſe obſervations on the nature of the evidence, which you have heard, as appear, to my mind, to be ſuch as, for the ſake of juſtice between the country and the priſoners, I ought to call your attention to.—And, Gentlemen, what I have to offer to that attention, for many reaſons, I think I ſhall be able to lay before you, without preſuming to aſk much more of your time, in addition to that which you have already given to this long and important cauſe.—In ſome meaſure I feel myſelf compelled not to treſpaſs long upon your time, becauſe I am not very well able to do it. If the circumſtances in which I now ſtand, did enable me with the utmoſt vigour to addreſs you, I know alſo that the duty, which is about to be done to the priſoners and the country by the wiſdom which preſides here, in ſtating to you every thing which is material in law and fact for your conſideration, certainly would ſuperſede the neceſsity of my troubling you very much at large.

I think it my duty to intimate in the firſt place, and I do this with a view that a correct idea of this indictment may be given to you by the learned Judge, who will ſum up this cauſe, that I think my learned friends have all of them taken much too narrow a view of the effect of this indictment. They have each, and every of them, endeavoured to ſatisfy you, that unleſs a priſoner can be found either to have had this paper in his poſſeſsion actually, or to have had it in his poſſeſsion in the legal ſenſe of thoſe words, that is, to have been cognizant of the fact, that ſome other priſoner had it in his poſſeſsion, with intent to go to France, and to have concurred with him who had the actual poſſeſsion, in his deſign with reference to that paper, you cannot find ſuch priſoner guilty.—Now I take leave to repreſent, in my Lordſhip's hearing, that I do not take that to be the effect of the indictment—The indictment charges three ſpecies of treaſon, and ſtates ſeveral overt-acts of the different ſpecies of treaſon.—The firſt act is a Conſpiracy to ſtir up, raiſe, and make rebellion and war againſt the King within this Kingdom, and to incite, encourage, move, and perſuade the enemies of our Lord the King, to make and cauſe to be made, an hoſtile invaſion of this kingdom.—As

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to the firſt overt act, ſo far from making it neceſſary to prove that this paper was in the poſſeſſion of one of the priſoners, with the knowledge of all or any other of the priſoners, I conceive, if the fact of the poſſeſſion by one of the priſoners, accompanied with the true inferences which reſulted from the circumſtances of the conduct of the reſt of the priſoners, proved that the priſoners were engaged in one common deſign, either by that paper, or otherwiſe, to incite the enemies of the Country, to an invaſion of the Country—that, although ſome of the priſoners might not even know the fact, if it could be ſo put, that that paper was in the pocket book of O'Coigly, yet, if the circumſtances of the evidence ſatisfy you, as to each, or any of them, that they engaged in ſuch a conſpiracy, that that evidence will be ſufficient to authorize you to find ſuch of the priſoners guilty.

With reſpect to the ſecond overt-act here ſtated, namely, that the priſoners did procure and obtain, and in their cuſtody and poſeſſion did conceal and keep a certain paper-writing, theretofore compoſed and prepared, to ſignify and repreſent to the enemies of our Lord the King that divers of the ſubjects of our Lord the King, in caſe the enemies of our Lord the King ſhould make, or cauſe to be made, an hoſtile invaſion of this Kingdom, with ſhips and armed men, to proſecute and wage war againſt the King, within this kingdom, would aſſiſt ſuch enemies, it is moſt certain that that count does, in the moſt expreſs manner, charge that they did conceal and keep the paper in their poſſeſſion; but I think alſo that my Lords will agree with me in this obſervation, that it is not neceſſary, that a priſoner, in order to entitle you to find him guilty, ſhould have the paper in his actual poſſeſſion, though, as it ſeems to me, upon this count it would be neceſſary, if you were to proceed upon this count only, that the priſoners, who had it not actually in their poſſeſſion, ſhould in this ſenſe, have it legally in their poſſeſſion, namely, that they ſhould be concerned in one common deſign with the priſoner who actually has it in his poſſeſſion, to ſend that paper to France.

When you look at the other overt acts here ſtated, which are overt-acts, charging the priſoners with an endeavour to hire a veſſel or veſſels, to convey or cauſe to be conveyed the

priſoners

priſoners from this kingdom unto and into parts beyond the ſeas, to the intent that they might, in parts beyond the ſeas, give advice, information, comfort, aid, and aſſiſtance to the enemies of the King. I apprehend it to be quite clear in point of law alſo, that if you can be ſatisfied that it was their intention that they, or any of them, ſhould be conveyed, either conveying all of themſelves, or cauſing and procuring ſome of themſelves to be conveyed for that purpoſe, in whatever form, in whatever mode, by whatever means they meant to give that advice and information, even if that paper never had been carried or intended to be carried into France, the indictment would be made perfectly good as to all, who had conceived that general intention of giving ſuch advice and comfort; ſo with reſpect to treating for the boats, the ſame ſort of obſervation will apply to the counts in the indictment which relate to that fact. As to thoſe, which relate to the conſpiracy, I believe I am accurate, hoping to be corrected if I am otherwiſe, in ſtating that, if all the priſoners, if four, if three, if two, are engaged in the conſpiracy, the engagement of ſuch number of them, more or leſs, in ſuch conſpiracy, would juſtify your finding againſt ſuch of them as were ſo engaged, notwithſtanding you ſhould think the others not guilty. With reſpect farther to thoſe counts, that mention the treating for boats for the purpoſes mentioned in the indictment, I apprehend that I am alſo juſtified in ſtating, that whether one, or two, or more, were ſo concerned, as to ſo many as were ſo concerned, you would be juſtified, if the evidence bore you out in ſuch finding, in finding them guilty, though you acquit the others.

With reſpect to the laſt count, my Lords will ſee that it charges the priſoners with the fact of going to the King's Head, at Margate, for the purpoſe of there deviſing and obtaining the means of going to France, with intent to carry unto the enemies of the King, intelligence, information, advice, aſſiſtance, and comfort; it alſo charges that they meant to convey that paper: But I apprehend that it is quite clear in point of law, that if you can be ſatisfied that they meant to give that advice, aſſiſtance, intelligence, and comfort, although

that

that paper is mentioned in that count, it will not be neceſſary that you ſhould alſo be ſatisfied that that advice, aſſiſtance, intelligence, and comfort, was to be given in this expreſs mode, namely, by the communication of that paper to France.

I have ſaid thus much with a view that the nature of this charge may be underſtood; it ſeems important now to ſtate, that I have great ſatisfaction, whatever may be the nature of your verdict in the reſult of this buſineſs, in reflecting that at leaſt thoſe, who are charged with this important offence, may be fairly, I think, repreſented to you now, to have had time to prepare for their defence, and I conceive that this obſervation is not uncandid, becauſe, when I come to conſider what the nature of the defence is, and what the nature of the defence might have been, I ſhall certainly offer obſervations upon the nature of what the defence has been, with more of ſatisfaction to my own mind, than I could have felt, if I had offered ſuch obſervations to you, having any ſcruple in my mind with reference to the fact, whether the parties had had ſufficient time to prepare for their defence. Before I examine the evidence on the part of the Crown, as it affects each and every of theſe priſoners, ſtating my obſervations ſhortly, as to each and every of them; you will give me leave to diſpoſe of the whole evidence in defence at this moment, with a reſerve only of what I have to ſay with reference to the character which has been given to Mr. O'Connor; you will permit me now to diſpoſe of all the reſt of the evidence offered in defence.

With the exception of one witneſs, who ſpeaks to the fact, a very material fact, as it ſeems to me, viz. that of O'Coigly's having applied to him as a perſon in diſtreſs, I think the gentleman's name is Stewart, I do not recollect that any witneſs has been called on the part of the Defendants, who has ſpoken one ſyllable with regard to any of theſe priſoners, either as to character or otherwiſe, ſave as to Mr. O'Connor, and excepting the teſtimony which relates to Thomſett.

I correct myſelf; I underſtand that when I was out of Court, Mr. O'Coigly received a character from the ſame witneſs Mr. Stewart, a gentleman who knew him as a Clergyman, and never knew him but by the name of O'Coigly. With theſe exceptions

exceptions, I think the evidence on the part of the Defendant has applied to no one except to Mr. O'Connor. With reſpect to the witneſſes who are called to contradict Thomſett, and whoſe teſtimony it was very obvious, was calculated to diſcredit him, under the idea that he would have given ſome conſiderable evidence with reſpect to the property of the great coat; you will permit me to mention that Thomſett's evidence, as far as it was material, was moſt diſtinctly proved to be true in two ways; firſt it was proved by all the witneſſes at Whitſtable, that Thomſett went from Whitſtable with the Cart and Luggage, and O'Coigly, Allen and Leary; ſecondly it is proved by all the witneſſes who came from Margate, that Thomſett came to Margate with the cart, and with O'Coigly, Allen, and Leary; ſo that the fact which Thomſett ſtated, that he had made that journey, would have been as well proved without the evidence of Thomſett, as with the additional evidence of Thomſett; and, in point of fact, Thomſett, ſo far from giving a ſuſpicious evidence, had ſtated himſelf with great caution, with reference to the coat, that he would not preſume to ſwear to the coat; in fact, he ſaid little or nothing about the coat, and then they took the trouble to call three witneſſes to diſcredit him, one of whom, I think his name was Kettle, inſtead of deſtroying the credit of Thomſett, whoſe evidence was really not neceſſary to be given at all, confirms him throughout, for Kettle ſtates diſtinctly that he told the ſame ſtory to him as he has related here this day; he certainly does ſwear that Thomſett did ſay he wiſhed they were hanged; you recollect Thomſett explained that by ſaying he wiſhed they ſhould be hanged if they deſerved it, and that he would not take a hundred pounds to keep back his evidence if he was offered it, and that he had been offered three hundred pounds not to give his evidence, which fact you can pay no attention to, becauſe it is not brought home to any of the priſoners; and then with reſpect to the two women, Mrs. Jones and her ſervant, they differ in this moſt material reſpect, that Mrs. Jones ſtates the converſation, ſuch as it was, to have been upon the day when theſe gentlemen were arraigned at Maidſtone, which, if I recollect right, was upon the 30th of April, whereas the

ſervant, who was called to ſupport her, diſtinctly ſtated that the converſation paſſed on the 9th of March; I think therefore, that with reſpect to that contradiction, which is attempted to Thomſett's evidence, you may lay it entirely out of the queſtion.

Gentlemen, when I had the honour of opening this caſe to you yeſterday, I certainly could not be ignorant that Mr. O'Connor, one of theſe priſoners, had been intimately acquainted with a great number of perſons of high reſpect and condition, who have this day been called to his character, and undoubtedly from the evidence which has been given with reference to his character, he is entitled to ſay he has received teſtimony to character from perſons of as high credit, and from as reſpectable witneſſes, as it is poſſible to put into that box; though I could not be ignorant that he was in the habits of intimacy with thoſe perſons, the difficulty that ſtruck my mind was this, (how far I am right in this obſervation it will be for you, when you have heard the more correct obſervations of my Lord, to ſay), that it was impoſſible in the nature of things, however, that Mr. O'Connor could be engaged in ſuch a tranſaction, as this certainly muſt be admitted to be, attending to all the circumſtances of it, without occaſioning at leaſt as much of ſurprize to the reſpectable perſons who have ſpoken to character this day, as the diſcloſure of theſe circumſtances could have created in the minds of any perſons, who had not had previouſly an acquaintance with Mr. O'Connor. The feelings of ſurprize, which ſuch a tranſaction as this is, conſidered with reference to all its circumſtances, muſt neceſſarily create, cannot but be as conſiderable in the minds of thoſe who ſpeak to character, as in the mind of a perfect ſtranger to the perſon relative to whom ſuch a tranſaction happens to be related.

Gentlemen, having ſtated to you the nature of the indictment, and having troubled you for the preſent with theſe ſhort obſervations upon the defence, which has been made by the evidence on the part of the priſoners, you will allow me here, to apply myſelf for a moment to conſider thoſe principles of evidence, which my learned friends have, each, and every of them,

them, inſiſted upon, as being thoſe which are to govern your minds, when you come to apply the facts of this caſe to the law of the country; and I am extremely ready to ſtate with them, in the broadeſt terms, that your conſciences muſt be perfectly ſatisfied by cogent evidence, and ſatisfied too, by that ſpecies of formal evidence, which the law of the country requires to be given in this kind of caſe, that the Defendants are guilty of what is imputed to them, before you can convict. Gentlemen, I am confident that no man in this country would dare to aſk you to convict them upon any evidence, ſhort of that, which does fully ſatisfy your conſciences; and here I take the opportunity to beſeech of you, on behalf of the Country, and on behalf of the priſoners, who are part of the Country, in whoſe fate the Country is intereſted, deeply intereſted; that your verdict ſhould be according to the evidence, that you will now addreſs yourſelves to conſider the whole of the evidence which has been given, and that you will now moſt anxiouſly endeavour to execute the duty which you have ſolemnly impoſed upon yourſelves, by the oath which you have taken, to make a true deliverance between the King and the Priſoners at the bar. Gentlemen, I go as far as any man in beſeeching you, by every conſideration that can be preſſed home to your conſciences, that, if any means whatſoever have been taken to create any prejudices, you will be pleaſed to recollect, that, in my humble judgment, there is not a man among you, who is qualified to execute that duty which the law impoſes upon you, who has ventured to form an opinion upon this evidence, till the very moment that you have heard the whole of it, and the whole that is ſaid upon it. Having heard the whole, you ſhould then conſcientiouſly review the whole; and I truſt I am addreſſing myſelf to twelve men, none of whom have formed their opinion, declared their opinion, or ſtated their opinion even at this inſtant.

Gentlemen, you will permit me to ſay, that I think my learned friends, I mean particularly the very reſpectable gentleman who addreſſed you firſt, and the very reſpectable gentleman who addreſſed you laſt, muſt have entered upon the execution of their duty this day, with conſiderable pain, be-

cauſe I think it impoſſible not to ſee, that they have felt it abſolutely impracticable to defend all their clients, without neceſſarily making admiſſions, which muſt prejudice ſome of their clients, and without uſing arguments, occaſionally, on behalf of ſome of their clients, which arguments cannot, in my apprehenſion, be juſtly founded, without your being compelled to draw inferences with reference to ſome others of their clients, which it was the duty of Counſel, as far as their ſituation would permit, and to the extent in which their ſituation would permit it, to have guarded the other priſoners againſt; they have executed their duty as faithfully as the nature of the caſe would permit.

With reſpect to the law in this caſe, upon the nature of the overt acts, I think I am entitled to repeat again, what I ſtated in the outſet of this buſineſs, that we could have no diſpute about it; as to the offence of compaſſing the King's death, the offence of adhering to the King's enemies, and the offence of inviting thoſe enemies to enter the Country; I ſtated them to be in law of ſuch a nature that it is unqueſtionable, and for that reaſon it has not been queſtioned; when I ſo expreſs myſelf, I deſire not to be underſtood to mean that it would have been improperly called in queſtion, if it could have been queſtioned; but it has not been, and could not be queſtioned, that if the overt acts of thoſe treaſons, as laid, are proved in fact, they are, in point of law, each, and every of them, ſuch overt acts, as will ſupport the charge made upon the ſtatutes, upon which the indictment for thoſe offences proceeds; I do not therefore trouble you with one word more upon the law of the caſe.

With reſpect to the facts of the caſe, my learned friend who addreſſed you firſt this morning, admitted that it could not be reaſonably or fairly doubted, after the evidence which had been given, that Mr. O'Connor, his Servant, O'Coigly, and Allen, meant to go out of the kingdom together—and, I think, he could not raiſe a doubt that they meant to go to France, and that theſe four did mean to go to France, is, I think, a point of fact which it is impoſſible for you to doubt of, when you come to conſider the evidence. My learned friend, whoſe

language

language I am now alluding to, followed by other gentlemen in the ſame terms, intimated that no ſuch thing could be ſtated with reſpect to the priſoner Binns. Now, with reference to that, I take leave to ſtate to you, that, for the reaſons I ſhall repreſent preſently, it appears to me, that that is as deciſively proved (more deciſively it cannot be proved) with reference to Binns, as with reſpect to any other of the four.

There was another obſervation which fell from the learned gentleman who opened this cauſe in the morning—a comment, I ſhould rather call it, upon the nature of the paper addreſſed to the Executive Directory. That the paper, as he expreſſed himſelf, was a foul paper:---He ſpoke of the contents of the paper, as of the contents of what he called that foul paper; and he ſo characterized the paper, when he ſtated that Mr. O'Connor could not be baſe enough, wicked enough, or fooliſh enough, to have any thing to do with that foul paper. He was obliged afterwards, however, to contend, I think, that this paper was rather fooliſh than foul; and he afterwards entered into a diſcuſſion of the contents of the paper, many parts of which diſcuſſion I ſhall have occaſion to take notice of.——When he came to conſider the caſe of O'Coigly, he found it, as it ſeemed to me, impoſſible ſo to ſtate himſelf to you, if you credited the evidence, and the paper was ſuch as he firſt admitted it to be, as really to raiſe any thing like a fair doubt in your minds with reference to the guilt of O'Coigly; if he, having in his actual poſſeſſion ſuch a paper as the Counſel had firſt repreſented this to be, did intend to go to France with that paper; and my learned friend was therefore obliged, in this part of the caſe, to contend that the paper, though at firſt repreſented as I have mentioned, was of ſuch a nature, that it could not poſſibly be preſumed that it was intended to be delivered to the Executive Directory, to which it profeſſes to be addreſſed; and that the contents of it were ſuch, that it was impoſſible, even if you ſhould be of opinion that O'Coigly had the paper in his poſſeſſion, that he could have had it in his poſſeſſion, as I admit he muſt have had it, to make the poſſeſſion criminal according to the Indictment,

with intent to be carried into France, to be preſented to the enemies of the country.

Let us now ſee, as to general facts, how the caſe ſtands with reference to O'Coigly---Some little attempt was made yeſterday to prove that O'Coigly was an Iriſhman in diſtreſs: it has been followed a little to-day, in the evidence of Mr. Stewart, who mentioned, I underſtand, that he was an Iriſhman in diſtreſs, relieved by him, Mr. Stewart, and likely to be relieved by Mr. O'Connor, whoſe temper and generoſity have been ſtated—that he had fled from Ireland, as my friend, who addreſſed you laſt repeated again and again, on account of the ſtate of Ireland; that, having fled on account of the ſtate of Ireland, it was true that he was going to France; that, ſome how or other, but how remains perfectly unaccounted for, he had connected himſelf with Mr. O'Connor---a connection perfectly unaccounted for, as it ſeems to me, both upon the part of Mr. O'Connor, and Mr. O'Coigly; that he had alſo, ſome how or other, connected himſelf with Binns: The origin of that connection of O'Coigly with Binns is alſo perfectly unaccounted for, as well as the origin of Mr. O'Connor's connection with Binns. That he had likewiſe connected himſelf with Allen, and that theſe four perſons and Leary were found at Margate, going to France, under the circumſtances which you have heard. It is ſaid, however, that there was no criminality attached to Mr. O'Coigly.—Gentlemen, you will permit me to put you in mind of what has been really the evidence---and I will do it in a very few words.

You have had evidence laid before you, which, being uncontradicted, I apprehend I have a right to ſtate to be complete, that O'Coigly appears to have been in France, by the Paſſport which has been produced, which is proved to have upon it his own name, in his own hand-writing; and in Holland, and in Flanders, from the month, I think, of Auguſt, to the month of November, if not of December, incluſive. If, therefore, O'Coigly was a perſon who had fled, from any circumſtances of diſtreſs, from Ireland, which, by the way, are not at all proved to have exiſted---but, if O'Coigly from any cir-

circumſtances of diſtreſs had fled from Ireland, the firſt obſervation that I have to make to you is, how does it happen that Mr. O'Coigly went ſo lately back to Ireland, as the letter which he writes to Lord Edward Fitzgerald, on the 14th of January, diſtinctly proves that he went back to Ireland? and which letter, though it contains a very few words, I take to be a moſt important one in this caſe.---How does it happen that he betakes himſelf to Ireland in the period between the month of December and the 14th of January, the date of the letter to Lord Edward Fitzgerald, and then comes back again to England ſoon after the date of that letter? He has not at all accounted for his going to Ireland: he has not at all accounted for the fact of his having been in France: he has not at all accounted for the fact of his being in Holland: he has not at all accounted for the fact of his having been in Flanders: he has not at all accounted for the circumſtance of his writing the two letters proved---the one to Rotterdam---the other to Amſterſtam---the one of which you will recollect was put into the hands of Perkins, the man who keeps the Bear and Key, at Whitſtable; the other of which was found in that pocket-book, which, upon the evidence, I am entitled to repreſent, I think, as being his pocket-book. I will ſtate preſently, why I am entitled ſo to repreſent it: He has given no account of any of theſe tranſactions; and he has not accounted for having the Addreſs to the Directory. It has been proved upon him, that he has been in Ireland: it has been proved upon him, that he has been correſponding with Lord Edward Fitzgerald: he has not thought proper to give you any account of the ſubject of that correſpondence: and (what is as material as any thing) you will be pleaſed to recollect that it was proved by Mr. Ford, who was here examined, that, according to that practice which I was going to call humanity; but it has nothing of a more dignified character, in my opinion, than that which belongs to common and ordinary juſtice; this gentleman was told that he was not bound to give any account of himſelf; and, that being brought upon ſuſpicion before thoſe, who examined him, if he thought it proper to give any account of himſelf, which had a tendency

to clear him from the ſuſpicions which had attached upon him, he had an opportunity of doing it, and he was examined.—Without calling now to your attention the particulars of each of the examinations of O'Coigly, which have been given in evidence, and which you will hear ſtated in the terms of them by the learned Judge, who ſums up the cauſe, which circumſtance, therefore, makes it unneceſſary for me to trouble you with the detail of theſe matters, I think myſelf entitled to ſay, that the evidence which has been given before you, to-day and yeſterday, moſt diſtinctly proves that there is not one word of truth in either of the examinations of O'Coigly.

Then I beg to call your attention to the circumſtances of his conduct. In the firſt place you obſerve, that it has been proved by Mrs. Smith, I think, that Binns—I ſhould be ſorry to miſrepreſent any thing here, and therefore I mention that I am not ſure whether I am correct in imputing this fact to John, or Benjamin Binns; but that either John or Benjamin had hired in the houſe of Mr. Evans, in Plough-court, Fetter-lane, a lodging——

Mr. Ferguſſon. There is no proof of Binns having hired any lodging—I refer to his Lordſhip's notes.

Mr. Juſtice Buller. He ſlept in his brother's bed.

Mr. Ferguſſon. Nothing of Binns having hired a lodging for any body.

Mr. Attorney General. I will not detain you, Gentlemen, with that; it is but a very ſmall circumſtance among many.

Gentlemen, I was about to ſtate to you, that after John Binns had ſet out, upon the Wedneſday, for Rocheſter, and you will recollect here, that with reſpect to John Binns's conduct, as to his journies, it is not only proved by all the witneſſes who have been called, but the whole is proved by his own memorandum book, though I admit that the circumſtance of his taking theſe journies, of itſelf, is very inſufficient to prove the criminal intent that muſt be fixed upon him, in order to find him guilty, according to this indictment. That after this John Binns had gone to Rocheſter upon his journey, and before his return, and after he had been endeavouring to engage boats upon the Friday at Whitſtable, and upon the Saturday at Deal,

Mr.

Mr. O'Coigly and Mr. O'Connor dined together upon the Saturday, at the houſe of Mr. Bell. Now, when we ſpeak of this Roman Catholic Clergyman as a perſon in diſtreſs, and when we ſpeak of Mr. O'Connor as wiſhing to get out of the country, upon the advice given him, with reference to which I have a good deal of obſervation to lay before you preſently—I obſerve here that it is a very ſingular mode of relieving a Roman Catholic Clergyman in diſtreſs, to convert him into an officer, to make a gentleman fellow-traveller of him as an officer, and to take him abroad with you in the character of an officer and fellow-traveller, having a ſervant to attend him; that it is ſingular that this happens by way of relieving him in his diſtreſs. I obſerve further to you, that it is (as far as any thing can be collected from the evidence of Mr. Bell,) proved, that O'Coigly, as Captain Jones, and Binns occaſionally, called upon Mr. O'Connor at his houſe, and that when O'Coigly occaſionally called upon Mr. O'Connor at his houſe, he was introduced to him (Mr. Bell) by Mr. O'Connor, as Captain Jones; that he dined with him as Captain Jones, as the friend of, and a perſon introduced by Mr. O'Connor. It is proved by other evidence, that in the evening of the day upon which they dined together at Mr. Bell's, to whom Mr. O'Connor had introduced him under the name of Captain Jones; Mr. O'Coigly, under the name of Captain Jones, and Mr. Allen, ſlept in the room of Binns, at Evans's houſe, No. 14, Plough-court, Fetter-lane. On the Sunday morning, as you recollect, Mr. O'Connor, under the name of Colonel Morris, with his ſervant, Leary; and Mr. O'Coigly, under the name of Captain Jones, with Allen, in the character of his ſervant, (the account of the connection between O'Coigly and Mr. O'Connor being given you upon the foot of the ſuppoſition that Mr. O'Connor was willing to relieve a perſon in the ſituation of O'Coigly, in diſtreſs,) meet oppoſite the Tower Stairs, and they go down together to Whitſtable. I paſs over the tranſactions which happened on board the boat upon the evening. The two military gentlemen, as they then appeared to be, namely, Mr. O'Connor and Captain Jones, leave the veſſel, taking with them a part of the baggage: the two ſervants, as they were

ſuppoſed

ſuppoſed to be, the one of them being a ſervant, the other being the perſon who had ſlept at Evans's along with Mr. O'Coigly, ſtaid on board the veſſel, to bring the reſt of the articles from on board. Upon the ſubſequent day, Gentlemen, I think it has been proved to you, reaſonably proved to you, that in the morning, in conſequence of Binns's not being at Whitſtable in the evening of Sunday, Mr. O'Connor left Whitſtable, and O'Coigly ſtayed at Whitſtable. I think it has been reaſonably proved, that great attention was given for the whole time, during which they were at Whitſtable, to the baggage; and I think it has been reaſonably proved, that both at Whitſtable, and afterwards, when the baggage was removed, that baggage was carefully attended to; and, what is very material for your conſideration, it has been moſt diſtinctly and clearly proved, as it appears to me, that at Margate, upon the Tueſday afternoon, after Captain Jones, that is, Mr. O'Coigly, came to the King's-Head at Margate, there had been no other gueſts in that houſe between the time at which O'Coigly came, and the time of the ſeizure of the baggage the next morning; that the family, one and all of them, ſpeak, as far as it was poſſible to eſtabliſh ſuch a fact by evidence, to the circumſtance that no other baggage had been brought into the houſe: they diſtinctly ſtated that that coat was found in the room in which Mr. O'Coigly was ſitting; and as to which coat, it has been urged to you, as if it could be taken for granted, that it had never been in O'Coigly's bed-room in the courſe of the night, whereas that fact has never been proved, one way or the other; and if the coat had never been in the bed-room, the pocket-book might have been there; but I do not pretend to ſtate that fact, one way or the other. It is proved that it could not be the baggage or great coat of any gueſts who were in that houſe, for there were none; nor was it the baggage of any part of the family of the houſe.

Then, Gentlemen of the Jury, an attempt is made to ſtate to you, with reference to Mr. O'Coigly, that this paper was not found in his poſſeſſion. Now ſee what are the circumſtances with reſpect to finding the paper in his poſſeſſion. I ſpeak with reſpect to him alone now. They find the paper in a pocket-

a pocket-book, which pocket-book is in the pocket of a great coat, which great coat was in the room where he was ſitting, and whether that great coat was his or not, I diſtinctly told you in the opening yeſterday, did not appear to my judgment to be material; but they find that pocket-book in his preſence: they examine the contents of it---according to Mr. Twopeny, this paper, which is addreſſed to the Executive Directory of France, was folded up in a ſheet or two of white paper, in ſuch a manner that it could not readily be ſeen; he deſcribed to you the fold at the edge of the paper; it was found in that pocket-book, with a variety of other papers; it was found in that pocket-book with other papers, which were addreſſed to Captain Jones; it was found in that pocket-book with another paper, which was directed to Lieutenant Johnes, and which certainly, as I underſtand, whilſt I was out of Court, has been proved not to be the hand-writing of Mr. O'Connor, but of Mr. Stewart. It was found in that pocket-book with that letter, however, of Mr. Stewart's, which is a letter to Mr. O'Coigly, and found in a pocket-book with the letter of orders, and the teſtimonials which produced the grant of thoſe letters of orders, to Mr. O'Coigly, who is now ſitting at the bar.

Gentlemen, you are told this is a kind of negligent cuſtody, in which ſuch a paper would hardly be found; I cannot agree with that obſervation, for I think the paper was in a cuſtody in which it was much more likely to be found, than that it ſhould be locked up in any one of thoſe boxes which required a ſmith to break them open, being boxes which, from their conſtruction, it has been proved, were moſt difficult to open; the means of deſtroying that paper were not ſo ready to the perſon who had the poſſeſſion of it, if he kept it in the boxes, as if he kept it in the pocket-book: then he has the coat in the room with him, the pocket-book in the room with him, and you ſee what means of defence he has upon his perſon, the inſtrument which I now hold in my hand. This pocket-book is ſeized, he refuſes to give any account of himſelf, he denies a connection with any of the other perſons, and continues to deny that connection not only at Margate, but in the way up to town; and he denies it when examined at Bow-ſtreet, and when be-

fore

fore the Secretary of State; and the denial, both at the one place and at the other, is of such a nature, that, connected with the other facts proved, it is utterly impossible, I apprehend, for men acting upon the common principles which ought to actuate human judgment, to enable it to form conclusions according to what is fairly rational, that you can have the least doubt that that paper was in his possession. Gentlemen, if that paper was in his possession, surely I should be thought to waste the time of a British Jury, if I was to follow my learned friend through the great variety of observations which he made upon the contents of it. With respect to the date of the paper, it is not immaterial to observe that it is dated upon the 25th of January: it is therefore a paper dated within about four days of the time in which Mr. Erskine gave the advice, which his evidence, tendered to you this day, has informed you that he did give. It is a paper addressed from the Secret Committee of England to the Executive Directory of France; it purports upon the face of it, therefore, to be a paper to be delivered to the Executive Directory of France.

My learned friends have said, that we have not proved who the Secret Committee of England are—In the first place, it is imposing a task of some difficulty upon persons to prove who form a Committee, expressly stated to be a Secret Committee; but it is not necessary to this case that any such Secret Committee should exist; if it does exist, then O'Coigly having the paper, addressed from that Committee to the Executive Directory of France, and meant to be delivered to them, in his possession, he knowing the contents of it, is unquestionably guilty of an overt act of treason. If that Secret Committee does not exist, but this is an address to the Executive Directory of France, in order to induce them to believe such to be the state of the resources, and the state of the dispositions of the people in this country, as that paper represents them, and to believe that there exists such a Committee as that Secret Committee in this country; and if it was intended to make them believe all that, contrary to the truth, then I have no other observation to make upon the fact but this, that it appears to be a more desperately wicked act of High Treason, than in the other

other caſe: becauſe then it is ſtating diſtinctly to the enemies of the country, with a view to invite them to invade the country, contrary to the truth, that there is a ſyſtematized and organized body in the country, which has a Secret Committee in the country, capable of repreſenting, and taking upon itſelf to repreſent the wiſhes, the circumſtances, and the finances of the country; and it is knowingly giving them encouragement beyond what the truth could admit to be repreſented, if the law would admit any repreſentation upon the ſubject to be made.

Then my learned friends ſay, why ſhould the Secret Committee of England ſtate all theſe circumſtances about the voluntary contributions: the French already knew thoſe circumſtances. If my learned friends will refer to the date of that paper, and recollect that it was upon the 25th of January, the fact with reſpect to the voluntary contributions in this country was not then of the ſame nature as it is at this day. The two millions, or thereabouts, that have been ſubſcribed into the Bank of England, were not ſubſcribed into the Bank at that time; and I believe not a fiftieth part of them was then ſubſcribed, and the paper marks, with pointed attention, that circumſtance to the Executive Directory of France. You, Gentlemen, when you come to look at the paper, will ſee that there is a line drawn under the word failed; it calls for the particular attention of the Executive Directory to the fact, that the voluntary contribution had *failed*; and it ſtates that which the writer of it muſt know to be contrary to fact, with reſpect to the army, and the manufacturers of the country, and with reſpect to the ſeamen of the country. In ſhort, it is a paper which is calculated to induce the Executive Directory to believe this, and to believe what is falſe, that the great bulk of the valuable ſubjects of this country, for in this country, as living all equally under the law, every man in the country is of high value in the view of that law; that the great bulk of the valuable ſubjects of this country are united for the ſake of forwarding an invaſion from France, in a project to overturn that ſyſtem of government under which they are living, and repreſenting their want of attachment to that ſyſ-

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tem, their want of the means of defending that government, and that they are unwilling to contribute any part of their pecuniary reſources to the ſupport of the government and the country. It attempts to make the Executive Directory of France believe, that in this country there was a body of men who were willing to ſpeak to them preciſely that ſort of language, which every man who knows any thing of the French Revolution, does know, has been the ſpecies and kind of language in which the papers of that government itſelf, as well as of others with which they have been correſponding, have always been couched. Read the paper; the language of it is calculated to be addreſſed to Frenchmen; it is in the very ſtile and language of every paper that we have ſeen during the laſt three or four years, that relates to that country, and it is unqueſtionably a paper which is drawn up, as I have before ſtated, for the wicked purpoſe of communicating, I care not how truly or how falſely, the reſources, the diſpoſitions, the means, the inclinations, the temper of the people of this country, for the purpoſe of inducing the perſons who have the government of that country in their hands, to invade this.

Gentlemen, I am ſure it will not be contended, though it has been inſinuated, that this is the leſs an overt-act of High Treaſon, becauſe the French Directory, might not act upon it, after conſidering the whole contents of it, if they had had the means of learning by thoſe ſpies, whom I think one of my learned friends intimated they had in this country, that the intelligence conveyed in it was not true, that it was not accurate, that it was not well founded; it will ſurely not be contended, that it is the leſs an act of High Treaſon in perſons who give the information, becauſe the French Directory happen to find out, that it is not information upon which they can rely. Whether they can or cannot rely upon the information, it has been the language of all Judges, in all times upon this ſubject, that the man, who has ventured to compoſe ſuch a paper, or to keep it in his cuſtody, with the intent of ſending it to the enemy, to give them information, has done as much as in him lay, to bring about the purpoſe, which the paper,

upon

upon the face of it, attempts to accompliſh. His guilt is complete, whatever effect the paper has.

It is ſaid, that it is an extraordinary thing, (I am again applying myſelf to the caſe of Mr. O'Coigly only) it is ſaid, it is an extraordinary thing, that no other paper but this was intended for the Executive Directory. Why ſhould there be any other paper intended for the Executive Directory? Beſides—this paper is, in its nature, a credential of the man who carries it.—It is a paper, which, if conveyed by any man, and received from that man by the Executive Directory of France, would eſtabliſh to the Executive Directory, that that man, without the aid of other papers, with the aid only of the intelligence and information that could be conveyed by him in converſation, might be received, as able to make repreſentations for others upon the ſubject to which it relates: It would inform the Executive Directory that he was a perſon who came accredited by that Secret Committee, or that body of men, who were ſuppoſed to ſpeak their ſentiments in that paper, and that he was a perſon with whom they might communicate with confidence, upon the ſubjects contained in that paper. And when after all this, you find Mr. O'Coigly called upon to give an account of himſelf, has given that account, which is detailed in the examination from Bow Street, and the examination from the Secretary of State's office, Gentlemen, however painful it may be to me, to repreſent to you, that this caſe is moſt clearly and deciſively proved againſt the priſoner, of the name of O'Coigly, in diſcharge of my duty, I am bound to do it, and here I reſt the caſe with you, beſeeching only of you to correct me if I have fallen into any error, with reference to his caſe, in point of fact, as I am ſure my Lord will do if I have fallen into any error in point of law.

Gentlemen, the next caſe, to which I will beg your attention for a few minutes, is the caſe of Mr. Binns.—Now with reſpect to Mr. Binns, repreſenting to you that I apprehend that this indictment is completely proved againſt him, if you ſhall be ſatisfied either that he was cognizant of the purpoſe of Mr. O'Coigly, or any others, to go to France with

with that paper, or to carry any intelligence or information to France, whether contained in that paper or not, with intent to give aſſiſtance to the enemies of the country; you will give me leave to ſtate how the caſe ſtands as againſt him.

In the firſt place, he has given you no evidence whatever—none—how it happened that he had any connection either with Mr. O'Connor, or with Mr. O'Coigly, or with Allen: the fact is clear, that he knows them all moſt intimately.—That he was engaged, in any way of putting the caſe, with reference to Mr. O'Connor, as his agent; that, in the moſt favourable way of putting it, he was engaged as the agent alſo of Mr. O'Coigly, in their attempt to go into France.—That he has been alſo engaged on the behalf of Allen, who was apparently the ſervant of Captain Jones, in his attempt to get into France.—Theſe facts are clear beyond all queſtion.—If the caſe had ſtood upon theſe things alone, as a caſe of ſuſpicion, one ſhould naturally have expected that Mr. Binns would have endeavoured to have given you ſome information how his acquaintance happened to be formed with Mr. O'Connor; how his acquaintance happened to be formed with Mr. O'Coigly; how his acquaintance happened to be formed with Allen.

Gentlemen, I beg the favor of you to attend to the ſame obſervation, otherwiſe put—How has it happened in this caſe, that Mr. O'Connor has given you no account how his connection came to be formed with Mr. Binns?—That Mr. O'Connor has given no evidence how his connection came to be formed with Mr. O'Coigly? So I put it again as to Mr. O'Coigly.—How has it happened that he has given you no evidence how his connection came to be formed with Mr. O'Connor? and how has it happened that he has given you no evidence how his connection came to be formed with Mr. Binns? Then as to Mr. Binns, you find him, in fact, as early as the Wedneſday morning, the agent of Mr. O'Connor, of Mr. O'Coigly, and of Allen; the commencement of his connection with whom, or with any of whom, he has not explained to you at all: but he goes down to Rocheſter upon Wed-

Wednesday—upon Thursday he was engaged at Canterbury with two witnesses, of the names of Claris and Mahoney; he represents himself there, if I recollect rightly, as being about to be concerned in some smuggling connection, desiring to have a recommendation—not to such place—you will attend to that—not to such place, as Claris or Mahoney should point out to him, but desiring a recommendation to some persons at Whitstable, that place to which Mr. O'Connor Mr. O'Coigly, Allen, and Leary, came upon the Sunday, to which they have not accounted for their coming upon the Sunday, unless there had been some intermediate communication between Binns and them, or some of them.

He not only points out to Claris and Mahoney that Whitstable is the place he wants to go to, but he names the persons there, to whom he wants a recommendation, and he states, falsely, as I am entitled to say upon the evidence of Rickman, that he had been recommended to Claris by Rickman, who has proved to you that he did not so recommend him. He goes to Whitstable: he sees there no less than four persons, I think—he sees Kitchingham, Appleton, Norris, and Foreman. Now, Gentlemen, you will permit me to call your attention, for a moment, to the conversations which he has at these places.—In the first place, is it capable of being denied that Mr. Binns (who was a lodger in the house, where Allen was paying 7s. 6d. a week for his room in Plough-court, Fetter-lane?)—Is it denied that Binns, at Whitstable, enters into a negociation to hire a vessel?—I do not name the place now—the price of that hire being no less than the deposit of three hundred guineas, and the price of the voyage, if the trip was a short one, being one hundred guineas—that is, if the trip was a short one, and the vessel brought back, what one of the witnesses has called a *crop*, and a hundred and fifty pounds, or guineas, if she came back unfreighted with any such cargo?

Now, I beg to ask how it happens that Mr. Binns has given you no explanation whose money it was, that he was bartering with thus largely? I do not call it excessively, for the terms were not excessive, they were much larger than

the bargain afterwards made at Deal, but not exceſsive, conſidering the danger the tranſaction was attended with. How has it happened, that Mr. Binns has not accounted to you by what authority he was empowered to pledge himſelf to theſe perſons, that there ſhould be a depoſit made to ſo conſiderable an amount, or that a ſum ſhould be paid in one event, or other, ſo conſiderable as the ſum he did engage ſhould be paid to theſe people at Whitſtable?

There is another material circumſtance.—Mr. Binns, if I underſtand the evidence right, firſt propoſes that the veſſel ſhould go to Fluſhing—he is told that to Fluſhing it cannot go, becauſe there is an embargo by the enemy: then he propoſes, and he propoſes it as an object, which he more deſires, that it ſhould go to Havre---that it ſhould go Dunkirk---that it ſhould go to Calais.---He diſtinctly, therefore, propoſes that a communication ſhould be opened between this country and the country of its enemies. He is remonſtrated with by no leſs than four perſons, whoſe teſtimony throughout is perfectly conſiſtent, who ſuggeſt that it was too dangerous a ſervice for them to engage in to go to Fluſhing, much more dangerous for them to engage to go to Calais, to go to Havre, or to Dunkirk. They were afraid of their perſons as well as their property, and he holds that language, if I collect the evidence right, at Whitſtable, which he alſo holds at Deal, he takes upon himſelf to be anſwerable for the return of the veſſel, as he expreſſes it; he inſures that the veſſel ſhall come back again: he ſtates that he is not certain whether he himſelf ſhould go or not: ſometimes ſaying he ſhould go: ſometimes that he is uncertain whether he ſhould go or not: at other times ſtating, that if he does go, he ſhould return in three or four hours. But it is the effect of this evidence, that Mr. Binns undertakes that the detainer ſhould not go beyond that, and that the veſſel ſhould return, and that he ſhould return with her, and that ſuch a price, as I mentioned, ſhould be paid for her, his buſineſs being that which would be over, as he ſaid, in three hours. Now, has he ſtated any other buſineſs, or given any evidence whatever how he came to be engaged for any perſon, in any other buſineſs whatever?

But

But it does not reſt there, becauſe you will recollect that at the time that Binns holds theſe converſations, he goes further; for he aſks, which proves a perfect knowledge of the intention of all the parties before he left London, whether there would be any objection, when the gentlemen ſhould come down on Sunday, that three or four ſhould go in the veſſel, inſtead of one (he having originally held a language, which ſeemed to import, that he was a perſon who was engaging the veſſel for his own uſe) that three or four ſhould go: they ſay, and very accurately, we can have no objection to three or four going with our veſſel to make this trip: it is no more of trouble to us than if one perſon only goes. Then he diſtinctly ſtates this repreſentation of the number of perſons he expects to come down, and the place to which he expects them to come down, and the occaſion of their coming to that place, he ſtates to be their purport of going to France. Mr. Binns, after having been at Whitſtable, goes back to Canterbury, and from Canterbury to Deal; at Deal he has communication of the ſame kind with three or four other perſons, perſons of the names of Hayman, Barham, Elliot, and a perſon of the name of Campbell: He treats with them alſo for the price of a veſſel to go, as he firſt ſaid, to Fluſhing: but they could not go to Fluſhing for the reaſon the Whitſtable people refuſed to go there—Campbell propoſed that they ſhould go to Hamburgh—Binns objected to that, and this is not an immaterial circumſtance for your conſideration when you come to attend to the letter of Mr. O'Connor to Lord Edward Fitzgerald—He then propoſes that they ſhould go to Calais, or to Havre; they ſeem not to have much of diſinclination to that, if the veſſel of the brother of one of the perſons which had uſually ſailed under neutral colours, could be engaged for that purpoſe; and they hold out to him that for the ſum of ſixty guineas they would venture to make that trip, about the Tueſday or Wedneſday in the ſubſequent week—Then, Gentlemen, Mr. Binns comes back again to Canterbury. You will permit me here to mention, that I think that the evidence has eſtabliſhed that he at Canterbury received a letter directed to William Wil-

liams, at the Fountain Inn, Canterbury; of which letter I refer to the evidence of Mr. Bell, ſuch as it is, as proving that he had, at the inſtance of Mr. O'Connor, written the addreſs, upon the Saturday evening, in Charter-Houſe-Square, and which letter is a letter ſigned, not Arthur O'Connor, not with the name of Colonel Morris, but ſigned James Wallis, addreſsing Mr. Binns in terms of the greateſt friendſhip and intimacy, informing Mr. Binns that he had received his letters, and that he would bring down with him all the parcels, which Binns had mentioned in thoſe letters. This was Mr. O'Connor's hand writing, under the name of Wallis, acknowledging his own receipt of Binns's letters in town.

Gentlemen, how Mr. O'Connor came to aſſume the name of Wallis, if the letter was his, and I ſubmit it as matter of fair obſervation that that letter may be ſtated to be his, when he procures the addreſs, under which Mr. Hugh Bell ſends it from Charter-Houſe-Square, to the Fountain Inn, at Canterbury, has not been at all explained to you. Mr. Binns, however, ſets out by the Canterbury coach on Saturday evening and comes up to town; he goes immediately, as Mr. Bell has proved, for his evidence is alſo ſufficient for this purpoſe, to Mr. Bell's, in Charter-Houſe-Square, he enquires there what had become of the gentlemen, that is, Colonel Morris, and Captain Jones; finding they were gone, he immediately takes a Graveſend hoy; he goes to Graveſend, he applies to Aſsiter, naming to him a perſon, I think, of the name of Galloway, an acquaintance of his, and as Aſsiter ſaid, formerly a member of the London Correſponding Society; he procures, by means of Aſsiter, a horſe, upon which he goes to Canterbury; he goes to Claris and Mahoney, at Canterbury; at firſt he propoſed upon that evening to go on to Whitſtable, he does not however go that evening, but he goes from Canterbury in the morning. It ſeems probable that he went towards Whitſtable, becauſe he met Mr. O'Connor, and Mr. O'Connor and he came back again to the Sun, at Canterbury, from which they ſet out together to Deal, and at Deal Mr. O'Connor and Binns are again communicating and negotiating for the hire of a veſſel,

a veſſel, which is to take them from Deal to France. And here I ſtate to you again, what I took the liberty to open yeſterday, that it appeared to me extremely clear, from the circumſtance which afterwards happened, of their meeting at Margate, that it had been determined by Mr. O'Coigly and Mr. O'Connor, before they left Whitſtable, that they ſhould meet again at Margate, and not meet again at Whitſtable.

Gentlemen, you have then proved to you this fact, that, in the abſence of Mr. O'Connor and Mr. Binns, all the baggage is left behind at Whitſtable; all Mr. O'Connor's baggage, as well as the baggage which belonged to the other perſons who formed this party; and you have the fact proved to you, that between the Monday morning and Tueſday afternoon, after enquiry whether any ſearches would be made into this baggage, whether it was probable that, if it went by water, it would be over-hauled, and being informed it would, they removed the whole in the manner in which Thomſett has informed you the baggage was carried from Whitſtable to Margate.

Before I ſtate the tranſactions which happened at Margate, you will permit me to mention that it is proved, by the evidence of Perkins, and alſo by the evidence of King the Land-waiter, that theſe circumſtances happened at Whitſtable—That, when the baggage was ſearched by Mr. King, the boxes, other than the mahogany boxes, were looked into, that is, other than thoſe boxes which contained the money; that O'Coigly repreſented that Colonel Morris was gone, I think, to Dover, to meet a friend; that the baggage was his, and that he was going to the Eaſt Indies; on the other hand, Leary, when the baggage was examined, ſtated that his maſter was gone to meet a friend, and that he had taken the keys of theſe boxes with him, which keys, to this hour, have not been produced, and he repreſented that his maſter was going to the Weſt Indies.

Such is the account given by O'Coigly and Leary of the intentions of Colonel Morris in his abſence. Then they go to Margate; when they come to Margate, the baggage is depoſited by Thomſett; the degree of care which was taken of it,

I have before mentioned; it is put into a parlour, where it is watched by Allen and Leary, as the two ſervants, except that the more valuable part of it is taken up ſtairs. Within a quarter of an hour after Mr. O'Coigly had arrived there, Mr. Binns and Mr. O'Connor came there; and Mr. Binns, Mr. O'Connor, and Mr. O'Coigly lived together as three gentlemen of the ſame party, until the moment in which they were apprehended in the morning.

Now, Gentlemen, I am entitled here to ſtate, I think, that Binns had been thus actively employed, and that he does not account to you either for the circumſtances under which he undertook the employment, the cauſe of his being engaged in it, or the motives and inducements which led him into this ſituation; and you find him with two perſons, (the origin of his connection with both remaining totally unexplained) the one of whom has in his cuſtody that paper, upon which I have before commented, I mean the Addreſs to the Directory, which paper unqueſtionably was to be carried to that country, for repairing to which Binns had been making no leſs than half a dozen efforts to engage a veſſel; had been inſuring the return of that veſſel; had been inſuring the payment of a large price for that veſſel; had been bargaining that three or four other perſons ſhould go if he did not himſelf go, ſometimes propoſing to go himſelf, ſometimes propoſing to ſtay abroad if he went abroad, ſometimes propoſing to return in the veſſel; and the other of thoſe two perſons having in his razor-caſe that paper, which I call Mr. O'Connor's cypher, upon the contents of which I ſhall have to obſerve preſently. Having mentioned this cypher, let me here, whilſt it occurs to me, illuſtrate what I ſtated in the beginning of this reply, as law, where parties have one intent, if Mr. O'Connor had the poſſeſſion of that cypher, and I prove that cypher to be of ſuch a nature, as I think I am entitled to repreſent to you it is, and O'Coigly did not know that Mr. O'Connor had it; if, on the other hand, Mr. O'Coigly had that Addreſs, the cuſtody of which we have fixed upon him, without the knowledge of Mr. O'Connor, if they knew not what was in each other's poſſeſſion, yet if it was the intent of the one, by one paper, to convey intelligence to France, and thereby

encourage

encourage France, and the intent of the other, by the other paper, to find means in France of making, for the encouragement of France, communications to and from France, however ignorant each might be that the reſpective papers were in the poſſeſſion of the other, they are both, in law, concerned in one common deſign, of encouraging the enemies of the country, in acts of hoſtility to this country.

I ſtate beſides, that when Binns was apprehended, there was the ſame circumſtance common to his conduct as to that of the others; I am ſubmitting to you here the effect of that fact in evidence, which is common to the conduct of all the reſt of theſe perſons. Mr. Binns, who had been ſo actively employed in the deſign of getting Mr. O'Connor out of the country, innocently, if you pleaſe to take it ſo, Mr. Binns, who had been engaged in getting Mr. O'Coigly out of the country, a diſtreſſed Roman Catholic Clergyman, travelling with Mr. O'Connor as a brother officer, attended by his ſervant—Mr. Binns, who has given no explanation of theſe tranſactions, knows as little of his companions as they know of him, and has as little claim to the property of the baggage as the reſt of the party, who were found together with that baggage by the officer, upon the Wedneſday morning. Then, Gentlemen, I muſt ſubmit to you, that this evidence, taken altogether, with reſpect to Binns, connected with the evidence reſpecting the other priſoners, does moſt diſtinctly prove, that he was aiding and aſſiſting O'Coigly, and the other priſoners, in conveying intelligence to aſſiſt the enemy of the country.

Gentlemen, there is another circumſtance, which I beg leave to call your attention to, and that is, that Binns alſo is proved to have a cypher in his poſſeſſion. What explanation does he give you of the paper called the cypher, which was in his poſſeſſion? which gives falſe names to places we all know, and falſe names to places we do not know. That is an additional circumſtance of evidence againſt Binns. I aſk how Binns could inſure the return of the veſſel to this country, unleſs he had reaſon to believe that thoſe who went in the veſſel would be hoſpitably received in the country to which ſhe went; and what reaſon could he have to believe that thoſe who repaired

to Dunkirk, Havre, or Calais, would be hoſpitably received there, unleſs he had ſome reaſon to conceive, that the perſons were conveying to thoſe places materials, which would make their arrival there acceptable, and inſure an opportunity to any who accompanied them, to return, if they thought proper, from that country, without running the risk and danger of impriſonment?

Under theſe circumſtances, I ſubmit alſo to you, that this caſe is moſt diſtinctly proved againſt Mr. Binns.

Gentlemen, I now come to trouble you for a few moments upon the caſe of Mr. O'Connor. Moſt undoubtedly I ſhould be offering to you an obſervation, which I think would render the moſt valuable thing in the world of little or no value, I mean character, if I did not repreſent to you that, in all doubtful caſes, character ought to have very conſiderable weight indeed; but when you have given to character all the weight that is due to it, yet executing your duty as conſcientious Jurymen, having to declare and to decide now, for the firſt time, upon the whole of the evidence, after you have heard the whole of the evidence, the true point of your enquiry is this—Was the perſon, to whom ſuch a character has been given, concerned in the charge which is imputed againſt him, aye or no? Now let us conſider what the effect of the evidence is in this caſe, as far as the evidence relates to Mr. O'Connor.

Gentlemen, in the firſt place I ſubmit it to you, as an obſervation of very conſiderable weight indeed, that I think it is moſt indiſputably proved, if Mr. O'Connor did not mean that intelligence ſhould be conveyed to the enemies of this country, with reſpect to the invaſion of this country, that it never happened to an innocent man to ſtand in a ſituation which expoſes him to ſo much ſuſpicion of guilt. That he was in the company of perſons, of whom, I am afraid, I am bound to ſay ſome of them are indiſputably guilty—that he was in the company of perſons meaning to convey intelligence to France—that he was in company with perſons with whom he has no natural connection—that he was in company with perſons, the origin of his connection with whom, or any of whom, he has not explained—that he was in the company of perſons, who are no

part of thoſe gentlemen acting in a body in this country for purpoſes, highly honourable I do not preſume to queſtion, a great variety of whom have given you evidence this day as to Mr. O'Connor's character—that he was in the company of perſons with whom it was not neceſſary that he ſhould be in company, for the purpoſe of getting himſelf abroad. All theſe things are clear. If Binns had been his acquaintance, though that fact is not proved, how he happened to employ Binns in particular, for the purpoſe of getting himſelf out of the country, if he had no intention but to avoid the danger of being in it, how he happened to employ Binns is not accounted for. If his object had been to get out of this country, without reference to France, as connected with any idea of hoſtile attempts againſt this country, what occaſion was there to take with him to France O'Coigly, a perſon who is ſtated to have juſt come from Ireland, and to have been lately in France? What reaſon had he to take O'Coigly with him? Why was it neceſſary to O'Coigly's relief, on the other hand, as a diſtreſſed Clergyman, that Mr. O'Connor ſhould take him to France? How was it neceſſary to his relief, or is it conſiſtent with an innocent purpoſe in Mr. O'Connor, that he ſhould ſuffer O'Coigly to repreſent himſelf under the name of Captain Jones? How was it neceſſary, from motives of charity on the part of Mr. O'Connor, or any other motive that has been aſſigned, that O'Coigly ſhould be travelling as a military officer, with a perſon as ſervant to him, who was no ſervant? Of all theſe circumſtances, none of which were either neceſſary, or probably ſuch as ſhould happen in conſequence of any thing ſuggeſted in defence, not one has been accounted for, or has been attempted to be accounted for. Add to theſe circumſtances, that Mr. O'Connor at the ſame time had the misfortune to fall into the company of perſons, one of whom had in his cuſtody and poſſeſſion the treaſonable paper addreſſed to the Directory, and that he had in his own cuſtody the cypher; and I think then that all the circumſtances juſtify me in the obſervation that I have made, that if he is innocent of this charge, he has fallen under more heavy ſuſpicion than generally belongs to the

caſe

caſe of any perſon, who can maintain that he is really innocent.

But, Gentlemen, it does not reſt there, for when Mr. O'Connor was apprehended at Margate, (you will recollect the nature of the evidence that has been given you as to this) Mr. O'Connor, who is now repreſented in the defence to have found it neceſſary to go out of this country for his own ſecurity, who had employed Binns without accounting why he employed him---who had connected himſelf with O'Coigly without accounting why he connected himſelf with O'Coigly---who was travelling with them and the other two perſons without accounting why he was travelling with them, except as to his own ſervant, Leary. Mr. O'Connor, who is ſaid to have been acting with an innocent purpoſe, when they are apprehended at Margate, becomes immediately ignorant of all the perſons with whom he has been travelling in Kent, and a ſtranger to all the perſons with whom he not only was travelling there, but with whom he had been going abroad, and whom he was occaſionally meeting whilſt he was remaining in London. He becomes alſo afraid, for ſome reaſon or another, not well explained; for the reaſon which they give cannot be the true one, of owning any part whatever of this valuable property. He got up to London, and the ſame mode of examination takes place at the Secretary of State's Office, which I have before mentioned; that is, the perſon examined is informed that he is examined for the purpoſe of clearing himſelf from ſuſpicion, if he thinks proper ſo to do, or with a full liberty to ſay nothing upon the ſubject, if he thinks fit ſo to act. Gentlemen, I call your attention to what is the conduct of Mr. O'Connor. If the real purpoſe of Mr. Connor had been to leave this country, under the circumſtances which have been repreſented, I aſk you, would it not naturally have occurred to any man who had that purpoſe, and who found himſelf in actual cuſtody, when the hope therefore of avoiding the poſſibility of being in actual cuſtody, which is ſuppoſed to have created in him the intent to go abroad, could no

longer

longer be entertained, to have ſaid—why—I have been very unfortunate, having left Ireland on account of circumſtances which I need not repeat, becauſe you have ſo often heard them, having left Ireland and come to this country; I meant to live happily here with the reſpectable perſons with whom I have been connected; I have been living happily with them, but I received an intimation from a moſt reſpectable gentleman on the 21ſt of January laſt, that I muſt go out of the country to avoid the proſecutions which might reach me from Ireland. I was going out of the country to avoid them. I had ſo much property, and ſo much baggage with me—what the intentions of others were I do not know. I had dined with Mr. O'Coigly under the name of Captain Jones, at Mr. Hugh Bell's on Saturday. I was going out of the country with him becauſe he was going out of the country with me. I had no intent but this which I have ſtated to you—that is the whole of the tranſaction. I have been unfortunate in falling into the circumſtances in which you have found me: but a candid and an honeſt and fair explanation will, I truſt, extricate me from the embarraſſments which ariſe from theſe circumſtances; and the worſt ſituation in which I can be placed is this, namely, that ſituation in which I ſhould have ſtood prior to my embarking on board the Whitſtable Hoy. Gentlemen, I ſay that the conduct of Mr. O'Connor is the reverſe of all this; and I do beg your moſt ſerious attention to this part of the caſe. Mr. O'Connor is, as Mr. Ford has proved, examined—examined under this caution: his declarations are taken down: he is again called upon—that examination put into his hand: and, as Mr. Ford informs you, being put into his hand, he himſelf corrects it: after it is corrected, it becomes then that declaration by which he means to abide: and that declaration by which he means to abide, I am ſorry to uſe the words, but I am bound to uſe them—falſifies the whole of the caſe ſet up to day.

In the firſt place, Mr. O'Connor ſtates that he was not going to France, and he not only ſtates that he was not

going

going to France, but he ſtates that he will implicitly abide by the declaration that he was not going to France: he ſtates that he knows no perſon of the name of Fivey; a name which O'Coigly uſed:—in ſhort, without going through the whole of the paper, I take leave to repreſent it to you, ſubject to the obſervations you will yourſelves make upon it, as perfect evidence that it was not Mr. O'Connor's intention, at that time, to acknowledge, as he has done now, that he was going to France. Why does he declare that he was not going to the place to which it is proved that he was going? Why was Mr. O'Connor afraid of the contents of his own baggage, and the other things which are now here? I will tell you why he was ſo, and firſt with reſpect to the money—you have heard a ſort of repreſentation made to you to day and yeſterday, that Mr. O'Coigly was to be taken as a perſon to be relieved, and in extreme diſtreſs.—Now it happens that in that box of Mr. O'Connor's, which contains the quantity of money which you have frequently heard mentioned, there is one bundle of the money amounting to the ſum of ninety-ſeven guineas, and accompanied with a paper which ſtates diſtinctly that that money is the money of Captain Jones, whom Mr. O'Connor, the owner of that box, had ſtated he did not know. Gentlemen, that is not all, but you will recollect, however ludicrouſly that has been treated by my friend who ſpoke laſt, that a witneſs gave conſiderable evidence with reſpect to that money. Not only has Mr. O'Connor been, without telling you why, connected with Mr. O'Coigly, to the extent in which I have before ſtated, but they are in ſuch a degree of intimacy, theſe ſtrangers to each other, that they ſlept in the ſame room at the inn upon the Sunday night. There was a perſon ſlept in the next room to them, and as I underſtand his evidence, over the door between the two rooms, there was a lattice which therefore opened to a more eaſy communication of what was paſſing out of one room into the other, than if the whole had been a brick, or lath and plaiſter wall: that fact has been ſworn to by two witneſſes. Now, in the courſe of the

night,

night, or early in the morning, theſe gentlemen, each of whom denies his knowledge of the other, are concerned in counting the money, and one of the witneſſes, I underſtand, ſpeaks to the ſcratching with a pen upon a paper, in which circumſtance the production of the paper confirms that witneſs. This proves therefore, that in the courſe of that night, Mr. O'Coigly, and Mr. O'Connor, who afterwards denied each of them, the ownerſhip of this baggage, and the contents of it, diſtinctly knew, after the account had been corrected, as upon this ſtatement it was in the courſe of the night, that one of theſe boxes contained a large ſum of money belonging to one of them, and a conſiderable ſum of money belonging to the other of them. Then what is the reaſonable concluſion upon this conduct of Mr. O'Connor—why the reaſonable concluſion upon all this conduct of Mr. O'Connor—taken together—I ſubmit to you—is this, that Mr. O'Connor either knew that O'Coigly had ſuch a paper as was found in his pocket-book, or what is preciſely the ſame thing to the purpoſe of this indictment, he knew either that he himſelf was engaged in the project of carrying information to France with reſpect to an invaſion of this country, or he knew that Mr. O'Coigly, if not going with that paper, was going with ſome other means, or with a general purport of conveying intelligence and information to invite an invaſion of this country.

But, Gentlemen, I do not reſt it here, becauſe I wiſh to know, if Mr. O'Connor has not explained any part of his conduct in this country, with reference to his connection, or the origin of his connection with theſe other priſoners, has he better accounted for other parts of his conduct? Mr. O'Connor, upon the 14th of February, 1798, for I think that is the date of his letter, and a moſt material date it is, becauſe you ſee it is juſt the midway between the 21ſt of January, when he received Mr. Erſkine's advice, and the 25th of February, when he left Mr. Bell's houſe, in Charter Houſe Square, having had intermediately between that 21ſt of January, and the 25th of February, an opportunity, if he had thought proper to get himſelf ready, to go in a veſſel to Emb-

den,

den, upon the 14th Mr. O'Connor writes that letter to Lord Edward Fitzgerald, which has been produced, and he writes alſo the letter to Mr. Roger O'Connor of the ſame date. In the laſt of theſe letters he has ſtated diſtinctly his notions of the ſituation of this country—he has ſtated the fact of his having ſold all his own property to Sir Francis Burdett, a gentleman living in this country, who might have been called to give an account of the tranſaction.—With reſpect to the letter which he writes to Lord Edward Fitzgerald; Gentlemen, I beg leave to aſk if it is poſſible, (I beg you will read this letter when you come to put this queſtion to yourſelves, in order to deliver your conſciences), if it is poſſible to induce any gentleman to ſuppoſe, that ſome rational account could not have been given, of the meaning of the contents of that letter, if it was conſiſtent with the defence which has been made this day, that the true account ſhould be given, of the meaning of the contents of that letter? What do the dark, myſterious, and unintelligible terms of that letter mean?

My learned friends ſay, and truly, that when you prove a caſe of myſtery, you do not prove a caſe of Treaſon, in truth you prove no caſe, when you prove a caſe of myſtery—but I ſay this letter, though occaſionally myſterious, has a direct and obvious reference to tranſactions, in which theſe gentlemen have been found actually engaged. I call your attention again to the paſſage in which the name of Williams is coupled with France by the cypher, upon which I ſhall trouble you by and by, and to the fact that the perſon who writes that letter, who refers to Williams, who has that cypher, in a part of whoſe baggage it is found, is the perſon who is found in connection and in company together with Mr. O'Coigly, who has the other paper addreſſed to France—I ſay when you come to conſider the effect of that cypher upon the word Williams in that letter, that it is moſt perfectly clear that Mr. O'Connor was going to France, and I muſt ſubmit it to you that that letter, and that cypher, prove very diſtinctly what the purpoſes were, for which that gentleman was going there.

Now

Now what is the cypher? my friend, Mr. Dallas, was obliged to put Mr. O'Connor in a very dangerous and desperate situation, as it appeared to me, when he made his observations upon this cypher, for he put it thus—that, as far as it proved any thing, it proves this, that there was a correspondence, not with reference to the invasion of England, but of Ireland—

Mr. Dallas. I said it related to Ireland, not to an invasion of England—

Mr. Attorney General. My friend will do well to consider that he must go a great deal further than that, for, when he says it relates to Ireland, he must take upon himself to inform us in what respect it relates to Ireland. Now that there has been an attempt made to account for the respect, in which it has relation to Ireland, you will recollect, and that the attempt, which has been made to account for its relation to Ireland is this—that it ought to be supposed to have reference to the property of Lady Edward Fitzgerald. As these concerns therefore of Lord Fitzgerald were not national or commercial concerns, I should be extremely glad to know why the coast of Ireland is to be described by the cypher? why the frigates of this country are to be described by the cypher? why, the armaments of this country are to be described by the cypher? why the sea-port towns of Ireland are to be described by this cypher? and why some of the ports of England are to be described by this cypher? in order to give an explanation of any concerns relative to property in which Lady Edward Fitzgerald, or any body else, may be interested; can such a cypher be necessary?

Mr. Dallas. It was another part of the letter I applied to the concerns of Lady Edward Fitzgerald, where Mr. O'Connor says, when I get to Williams, I shall be active there—

Mr. Justice Lawrence. And you applied the cypher to Mr. O'Connor being the proprietor of a paper called the Press.

Mr. Attorney General. Gentlemen, I was stating to you, what indeed I have stated before, that it was incumbent upon the prisoner to give some account of the meaning of the contents of this letter. Now, if I understand my learned friend correctly, who addressed you last, he says that the words "I shall"

ſhall be active there," might have a reference to the domeſtic concerns of Lord Edward Fitzgerald, as connected with a lady who is ſpoken of in this letter—Why undoubtedly, Gentlemen, it is impoſſible to deny that it might have that reference, but I ſay it is extremely ſingular that it ſhould have that reference, following that word Williams, which is the important word in that cypher, which relates to France, and being written upon that 14th of February, 1798, which was about a fortnight after this gentleman received the advice to go to France, and about ten days before he actually ſet out for France—then he refers Lord Edward Fitzgerald to a cypher, which contains the name of Williams.

Mr. Ferguſſon. I beg pardon for interrupting the Attorney General, but this is a groſs miſtatement of this letter, it contains nothing of the kind, but that a perſon was to go to Hamburgh in the courſe of three days.

Mr. Knapp. Here is the letter.

Mr. Attorney General. I excuſe Mr. Ferguſſon, becauſe when I had the good fortune to be as young as he is, I was as impatient.—Mr. O'Connor ſays 'the inſtant I get to Williams you 'ſhall hear from me, I mean to be as active as I can,' and it appears to me now, referring your Lordſhip and the Jury for my accuracy in the obſervation, that that is all one ſentiment. I was ſtating, Gentlemen, that this certainly might mean what they have ſaid it meant. I am alſo ſtating it, at leaſt in the hope that I do not overſtate the matter, that it might mean what I ſay it means—that I mean to be active in France for ſuch purpoſes as a perſon, having that cypher, would probably be engaged in. Now what are the purpoſes, that a perſon, having that cypher, would probably be engaged in? I ſay if you will examine that letter, and this cypher from the beginning to the end of it, I think it is impoſſible for any one of you, as men of common ſenſe, to ſay that either the letter or the cypher can have any reference whatever merely to any domeſtic concerns, or at all to any domeſtic concerns. What could Mr. O'Connor, who is ſtated to be, and in a general light he muſt be believed to be ſo, becauſe ſtated to be ſo, ſo ingenuous and open, what could he mean by the Man of Conſideration,

ſideration, the Black Terrier, the Sugar Baker, the Prieſt, and various other enigmatical phraſes, which he uſes in that letter? Upon theſe, perhaps, I might have no right to obſerve, if I did not find theſe dark, obſcure, and ambiguous paſſages ſtanding as part of a letter, in which that paſſage occurs, which connects it with the cypher, which I ſubmit can have no relation to any thing but the purpoſe of invaſion, either of England or of Ireland. I deſire, therefore, Gentlemen, that when you give your attention to that cypher, you will be ſo good as judge whether I repreſent rightly, when I repreſent as confidently as I do, that no perſon could either give or receive ſuch a cypher as that, with reference to domeſtic purpoſes, or purpoſes relating only to property. Then, Gentlemen, let us ſee how this paper connects itſelf, or whether it does at all connect itſelf with the paper, which was in the poſſeſſion of Mr. O'Coigly. If Mr. O'Coigly was going from this country to give material information to the French with reference to this country, and if the poſſeſſion and contents of that cypher and the letter can be made to prove, that Mr. O'Connor was going from this country to give material information to the enemies of this country with reſpect to France, I think it will be extremely difficult upon this indictment to ſay, that they were not engaged in one common project of giving aſſiſtance to the enemies of this country.—Why, Gentlemen, in the firſt place, would not an invaſion of England aſſiſt an invaſion of Ireland? Are the enemies of this country at preſent, do you think, acting upon a project, which ſuppoſes that it will not be beneficial to them, for the invaſion of Ireland, to invade England, or not beneficial for them for the invading of England to invade Ireland? What is the paper! the paper itſelf, which was in the poſſeſſion of Mr. O'Coigly, ſtates the union of the Engliſh, Scotch, and Iriſh, that the delegates of each country were ſitting at that very moment for the purpoſes mentioned in that very paper. Then, if you find a cypher in the poſſeſſion of Mr. O'Connor, which has relation to Ireland, which has alſo relation to England, which has relation to England generally, which has a clear relation to his reſidence at Paris, and if you

find him in company with a perſon going to France, and that perſon has a paper in his poſſeſſion, which has a moſt direct reference to an invaſion of England, attending alſo to all the other circumſtances of the conduct of the parties, I ſubmit that the true inference from the whole is, that both theſe perſons were engaged in one common project. Now let us ſee what his conduct is with reſpect to going abroad—Gentlemen, according to Mr. Erſkine's account of Mr. O'Connor, who came here in the beginning of January, and who, you will recollect, had lived in the metropolis of London, publicly as Arthur O'Connor, in the company of moſt or many of the reſpectable perſons here called to you, who did not find the leaſt occaſion at all, living in London, to change his name from the beginning of January to the time he left London upon the 25th of February, Mr. O'Connor receives advice from Mr. Erſkine upon the 21ſt of January to leave this country; the advice that he ſhould leave this country, may be followed certainly with a very innocent intent, or that advice may be followed by being acted upon in the execution of any bad project with a very criminal intent. Now let us ſee how he conducts himſelf between the 21ſt of January and the 25th of February. Mr. Erſkine is ſuppoſed to repreſent to him the abſolute neceſſity of getting out of the country. There is no communication, except that Mr. Sheridan has alluded to, there is no communication made by Mr. O'Connor to any of the reſpectable perſons, that have been called, of the fact of Mr. O'Connor's acquaintance with any of the priſoners, and the letter to Lord Edward Fitzgerald is writien upon the 14th of February, 1798.

Mr. Ferguſſon. It is not dated.

Mr. Attorney General. I put it to your Lordſhip, and the Jury, that when you read the letter to Roger O'Connor, and when you read the letter to Lord Edward Fitzgerald, the true inference from the contents of the two letters is, that they were ſent by the ſame conveyance, and were of the ſame date. When I am ſtating this as a fact, your Lordſhip knows that I am ſtating what I conceive to be the import of the evidence, and really my younger friend, if he will permit me to call him

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ſo again, ſeems to me to forget that, when counſel are ſtating the caſe, as the caſe appears to them to be, all they pledge themſelves to, is, to endeavour to be accurate. Whether they are finally accurate, or not, is that, of which the Court and the Jury are to judge. I ſtate it then to be the true inference in fact, that theſe letters are of the ſame date of the 14th of February, 1798, and I ſtate that, as the reſult of my judgment, upon the beſt conſideration which I can give the two letters, and in truth I have no doubt about it.

Mr. Erſkine gave the advice upon the 21ſt, that very earneſt and anxious advice.—It does not ſeem to have been acted upon with as much anxiety as it ſeems to have been given.—I beg here your attention to a paſſage which you find in the ſame letter to Lord Edward Fitzgerald, written after this advice was given, I mean the paſſage with reſpect to ſending off Maxwell, and the ſending off the two young men.—Firſt with reſpect to the ſending off Maxwell. When you come to read the examination of Mr. O'Connor, before his Majeſty's Secretary of State, I beg you will attend to what he ſays, about his knowledge of ſuch a perſon as Maxwell: for he poſitively declines to give any information whether he knows ſuch a perſon or not. In the next place, as to the young men, in what project does this letter of ſuch a date (Mr. O'Connor at this very moment being ſuppoſed to be in poſſeſſion of Mr. Erſkine's advice, then three weeks old, that he ſhould get himſelf out of the country as ſoon as he could), what project does it prove that he is engaged in? Not in the project of getting himſelf out of the country with as much expedition as he could, but he is informing Lord Edward Fitzgerald that he would get theſe two young men away as ſoon as he could: that he hopes to get them away in the courſe of three days; and if he fails of getting them away in the courſe of three days he will take care that Maxwell, of whom he declines to give any information, ſhall go by Hamburgh: It is clear that he could have got himſelf away, if there was this occaſion for his going ſo expeditiouſly, as ſoon as he could have got theſe young men away; Why did he not do ſo? Then what explanation is to be given of his engagement, in caſe he did not get the young men away, that he will make it a point, with Maxwell,

that he goes by Hamburgh, Mr. O'Connor declining, upon his examination, to explain who that Maxwell was? Then does Maxwell mean himſelf?—It is for your conſideration whether the name Maxwell does mean himſelf? becauſe, when a perſon is aſked, by a magiſtrate examining him, whom this word Maxwell means, and he will not anſwer, and when we find a letter, in his hand writing, ſtating that Maxwell ſhould go by Hamburgh, and when we find a perſon, in whoſe hand writing that letter is, employing Binns ten days afterwards, who appears before to be a ſtranger to him, to engage him veſſels at Whitſtable and Deal, for France, it is a matter for your conſideration, whether Maxwell is not himſelf; if it was not, ſtill one ſhould have thought it natural that Mr. O'Connor ſhould have given ſome explanation who Maxwell is.

An obſervation has been made, that this letter is matter of ſurprize upon Mr. O'Connor, and that therefore he cannot give an explanation of it. It appears to me that that obſervation cannot apply to it, becauſe in the nature of the thing, it is not very difficult to give ſome ſort of explanation of a letter written by one's ſelf, ſo lately as the 14th of February. But Mr. O'Connor could not be unappriſed that he might be called upon to give ſome explanation of the name of Maxwell, becauſe he had been five weeks ago called upon to give ſome explanation of the name of Maxwell before the Secretary of State.

Mr. O'Connor, it is alſo to be obſerved, had an opportunity to go out of the country, and not in the company of thoſe with whom he has connected himſelf; for Mr. Bell ſtates that there was a veſſel which was going to Embden, and that he might have gone in that veſſel ſome few days before the 24th, and although the advice had been given him by Mr. Erſkine as early as upon the 21ſt of January, he continued living in London under the appearance, name, and character, of Mr. O'Connor, living in high reſpect with the perſons who have appeared here to day, and without making the leaſt attempt to reſcue himſelf from that danger, which is repreſented as being the only cauſe of his leaving the country.

I muſt then ſubmit to you this queſtion, whether it is or is not ſatisfactorily made out to your conſciences, upon the

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whole of this evidence, that Mr. O'Connor, meaning to go out of this country, for whatever reaſon he did originally mean to go out of this country, when he was going out of it, engaged himſelf in a project to go to France for the purpoſes mentioned in this indictment, with the perſons who are mentioned in the indictment, or ſome of them.

Now, Gentlemen of the Jury, having ſtated thus much to you, it does appear to me, I confeſs, that the circumſtances of the caſe, when I opened the caſe to you yeſterday, did warrant me in ſaying that I had not been able to conceive what ſatisfactory anſwer could poſſibly be given to theſe facts. The opportunity has now been afforded of giving that anſwer, and I muſt ſubmit it again to your conſideration, as my judgement, that, in point of fact, the caſe againſt Mr. O'Connor has received no ſatisfactory anſwer, that in point of fact the caſe is of ſuch a nature, that it could receive no ſuch anſwer, and that the fact, that it could receive no anſwer, is the only ſatisfactory reaſon why it has received none.

The next perſon, whoſe caſe falls under conſideration, is Mr. Allen. With reſpect to Mr. Allen, certainly his concern in this buſineſs lies in a narrower compaſs, than that of the three perſons, whoſe caſes I have before examined. But you will allow me to put you in mind, that in the firſt place Allen connects himſelf with Mr. O'Coigly as his ſervant, Allen not being a ſervant, and Mr. O'Coigly, according to the accounts given of him, not being a perſon very likely to ſtand in the relation of a maſter to him—that he goes with him from Evans's houſe in Plough Court—attends him as his ſervant—that he takes the care of the baggage—that he goes throughout with Mr. O'Coigly, from Whitſtable to Margate—that then he again takes the care of the baggage—that he lives with Leary, as being a ſervant to a perſon to whom he was not a ſervant—and that he alſo participates in the the general repudiation, if I may ſo expreſs myſelf, of all knowledge of the parties with whom he is concerned, and of all intereſt in the property proved to be in the baggage. It is not the conduct of Allen alone which you are to conſider, but the conduct of Allen, taken together with the conduct of all the reſt of the priſoners, he being one of the party

of which theſe priſoners formed the reſt: and you are to infer as much, or as little, as can be conſcientiouſly inferred from the acts of all of them, as to the acts of each of them; and without going through more largely the particulars of Allen's conduct, I muſt ſubmit to you whether Allen has not, from the beginning to the end of this, by aſſuming a falſe character, afforded ſufficient evidence to ſatisfy you that he knew the purpoſe for which theſe perſons were embarking to France, for what reaſon ſhould he go as a ſervant, unleſs he knew the other perſons were going for purpoſes which were not proper to be known?—for what purpoſe ſhould he go in a falſe character, unleſs there was ſome reaſon that made it neceſſary prudence for all to aſſume falſe characters of ſome kind or other? The ſame obſervations apply to the conduct of Leary throughout, as to the conduct of Allen, with this difference only, that Leary certainly did not aſſume the character of a ſervant to a perſon, with whom he was not a ſervant, but was travelling with his maſter. You will remember however the repreſentations of Leary, with reſpect to his maſter, that were made to Whitſtable: you will remember the repreſentations of Leary with reſpect to the deſtination of his maſter to the Weſt Indies, you will recollect what was the conduct of Leary, when all theſe parties were arreſted; and you will recollect he refuſed to explain that conduct, as well as the reſt of the parties.

There are a great number of other obſervations which may poſſibly be material to be preſſed to your judgments, which I have omitted to ſtate; but, if I were more capable, than at this moment I am, farther to enlarge upon the caſe, I ſhould decline to do ſo. I have opened generally thoſe obſervations, which appear to me proper and neceſſary to be made in reply to the caſe brought forward on the part of the defendants. I know that you will hear the whole evidence, given for and againſt the priſoners, with every juſt and proper comment upon it, as it applies to the caſe of every one of the priſoners, delivered to you with an accuracy, which will demand and enſure your attention, and which will enable you to do juſtice both to the country and the priſoners. To do juſtice to both, is the duty which you are ſolemnly ſworn to execute.

SUMMING

SUMMING UP

MR. JUSTICE BULLER.

Gentlemen of the Jury,

This is an Indictment againſt theſe priſoners, James O'Coigly, otherwiſe called James Quigley, otherwiſe called James John Fivey; Arthur O'Connor, John Binns, John Allen, and Jeremiah Leary—the offence with which they are charged, is that of High Treaſon---the charge contained in the Indictment conſiſts of three ſpecies of Treaſon. The firſt for compaſſing the King's death; the ſecond for adhering to the King's enemies; and the third, which is founded upon a recent Act of Parliament, is for compaſſing to move and ſtir the perſons exerciſing the powers of government in France, with force to invade this Realm. Theſe are the three ſpecies of Treaſon which are ſtated in the Indictment; and there are ſtated alſo a great number of acts ſaid to have been done by the priſoners, tending to prove that they are guilty of thoſe crimes which I have ſtated to you.

The firſt act which is called an overt act, is, that theſe priſoners conſpired, together with others, to ſtir up, raiſe, and make rebellion and war againſt our Lord the King, within this Kingdom, and to incite, encourage, move and perſuade the enemies of our Lord the King, to make, and cauſe to be made, an hoſtile invaſion of this Kingdom, with ſhips and armed men, to proſecute and wage war againſt our Lord the King, within this Kingdom---There are then five other aſſignments, or overt acts, which all relate to this paper, that we have heard ſo much about, and which I will ſtate preſently more at large---There is alſo another overt act, which ſtates that theſe priſoners repaired to the King's Head, in Margate, in order to provide the means of going beyond ſeas, with intent to give advice, information, comfort, aid and aſſiſtance to the enemies of our Lord the King, to make an hoſtile invaſion of this Kingdom, with ſhips and armed men, to proſecute and wage war againſt the King, within this Kingdom---That there-

fore takes no notice of this paper, but charges them with having, by ſome means or other, without ſtating how, entered into a combination together, to induce the French to invade this country.

Gentlemen, this is the ſubſtance of the different charges mentioned in the Indictment. I cannot but obſerve to you with great ſatisfaction, as far as relates to myſelf, that there has been no doubt or queſtion made by the Counſel, on any ſide, as to the law; and the leading Counſel for the priſoners, namely, the gentleman who ſpoke firſt, and the gentleman who ſpoke laſt for them, admitted the law to be clear, which they did with a very proper view, as it ſtruck my mind, becauſe they wiſhed to bring your attention to that which really is the point of the caſe: they did not attempt to deny what is clear and plain law; they would have degraded themſelves; they would have diſgraced their character in a way which they are incapable of doing, if they had done it; but they brought the caſe to that which is a plain matter of fact. I approve their conduct in ſo doing, and think they acted highly honourable to themſelves, and judiciouſly for their clients. I will read this Letter, which was to go from the Secret Committee of England, to the Executive Directory of France.

His Lordſhip read the paper.

Undoubtedly it is impoſſible for the wit of man to put more than one conſtruction upon this paper, or to read it in different lights---What it imports is, that the great maſs of the people are already prepared to join in any invaſion which the French ſhould attempt; it inſinuates to them, that the country itſelf is divided; that it is a bankrupt in its finances, and that there is no hope entertained in this country, but by the preſence, as it is called, of the hero of Italy, with the aſſiſtance of an army of France. Who the hero of Italy is, no man can doubt.

How it could enter into the mind of any man, that if a French army ever came into this country, and got the better, they ſhould be induced to return quietly home, and leave their adviſers here in the poſſeſſion of this country, is a matter which raiſes great aſtoniſhment indeed in my mind: no con-

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duct of the French towards any other country has ever juſtified that expectation—The reſult of that paper is to induce the French Directory, under an idea that the people of this country would riſe in a maſs to their aſſiſtance, to invade this Kingdom, holding out every inducement to them to come, and aſſuring them that if they did come, they muſt ſucceed.

Gentlemen, upon this paper I do not know how to expreſs a better opinion to you, than in the very language of that great Judge who has moſt deſervedly had the higheſt encomiums beſtowed upon his memory, in the courſe of this day, from every part of the Court: I mean Lord Chief Juſtice Holt: In the trial of Lord Preſton, which you have heard very much relied upon by ſome of the Counſel for the priſoners, a paper was produced pretty much to the effect of this; but not, I think, quite in ſuch deſperate terms as are to be found here—but, ſpeaking of that paper, Lord Chief Juſtice Holt ſays, There is no manner of doubt but this is a treaſonable declaration: and if any perſon had this in his poſſeſſion, and was going into France, to carry it with an intention to make uſe of it there, that is Treaſon, though it be couched under the ſpecious pretence of reſtoring the people to their liberty. In ſhort, ſays he, it was plainly a deſign to invade England by a French army—So I ſay here; and upon this caſe I ſhall not heſitate a moment in ſtating to you, that theſe expreſſions of Lord Chief Juſtice Holt are applicable, in the utmoſt extent, to the preſent caſe; and that, whoever had the poſſeſſion of this paper, meaning to carry it into France to make uſe of it there, was guilty of High Treaſon within every part of this Indictment—It was High Treaſon within the firſt branch of the Indictment, which charges the priſoners with compaſſing the King's death; it was High Treaſon within the ſecond branch, which charges them with adhering to the King's enemies; it was alſo High Treaſon under the third charge in the Indictment, which applies in words to this very caſe: for the words in the Act, and in the third charge in the Indictment, are, that the priſoners compaſſed and imagined to move and ſtir the perſons exerciſing the powers of government in France, with force to invade this realm.—Having got thus far, I think I have not, in any part

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of the caſe, a ſingle queſtion of law more to ſtate to you; the whole then becomes a matter of fact, and the queſtion is, Did any, and which of the priſoners, engage in a deſign of carrying this paper to France, for the purpoſe of inducing the French to make an invaſion upon this country.

Now, Gentlemen, I will ſtate to you the evidence which has been given; and I will then ſtate to you ſome obſervations which occur to me upon the caſes of the different priſoners, which I ſhall do principally for the purpoſe of drawing your attention to their caſes diſtinctly; becauſe it certainly has happened in this caſe, and ſo it does in a variety of others, that there may be ſome evidence extremely ſtrong againſt one priſoner, which does not affect another priſoner in any material degree; and therefore, after I have ſtated the whole of the evidence, I propoſe to make ſuch obſervations as appear to me applicable to the priſoners diſtinctly.

Mr. Juſtice Buller ſummed up the evidence at large, and then proceeded thus:

Gentlemen, this is the whole of the evidence---As to the law, I have already told you that, It is perfectly clear, that whoever had this paper in their poſſeſſion, meaning to carry it to the French and deliver it to them, for the purpoſe of affording them any aſſiſtance or information againſt this country, was undoubtedly guilty of High Treaſon---The queſtion is, whether any of theſe priſoners have been proved to have been ſo concerned. The evidence unqueſtionably affects the priſoners in a very different degree: and therefore, in order to lay before you, for your conſideration, the principal parts of the evidence, as they affect the priſoners reſpectively: I will ſtate how it appears to ſtand as againſt each.

Firſt, with reſpect to O'Coigly, it has been admitted, I believe, by every Counſel who ſpoke in the cauſe, that if the facts ſtated here, are proved to your ſatisfaction, there can be no doubt of the reſult, becauſe, if they are proved to your ſatisfaction, it is impoſſible to ſay he was not fully apprized of the whole deſign. He denies poſitively that the great coat in which the pocket-book was found was his. Now it has been proved by one witneſs, very poſitively, and has not been denied by any body, that this great

coat

coat was his---What is the general character that he appeared in---He has been filling the characters of prieſt, of captain, and of merchant; and he has paſſed by the names of Jones, of Parkinſon, and of Wallace. The only witneſs called for him, as to character, ſpoke of that very ſlenderly. He ſaid, he conſidered him as a man of moral character. But was there any reaſon for his quitting Ireland as he did, or any reaſon for his going to France as he was going. Some account ought to be given of this by him. Here is a long detail of the various places that he was going to, and had been at: and no account or explanation of his conduct offered by him.

He ſays, he came to London in May, 1797; the next place we hear of him in, is Holland; then he went to France; we hear of him at Paris; then at Havre; he came back to Havre in December, 1797; in January, 1798, he is proved to be in Ireland; on the 14th of February he was at Manchester; on the 22d and 23d of February he was in London; and after that, we find him in the ſituation in which the priſoners are deſcribed, with this paper in the pocket of a great coat, which is proved to be his. Whether he was going to France, or not, will be a queſtion for your conſideration, by and by---but all theſe things require ſome anſwer---What anſwer is given?---None. His witneſs ſays, about ten years ago, there were ſome people in Ireland, under the character of Orange Boys and Peep-of-Day Men, that did miſchief to the priſoner's father's houſe.---What then?---Did that call upon O'Coigly to quit Ireland ſo lately as a few months ago?---If there was any ſerious danger to his perſon, from the attack that had been made upon his father's houſe ten years ago, how came he not to leave Ireland then? and if he did, how came he ever to go back again?---The next thing is, that the journey and the dates are proved by a paſſport, found in a way which admits of no doubt as to him, becauſe it not only deſcribes him by name, and where going, from place to place, but there is his hand-writing upon it.

Then, ſay the Counſel, as to the great coat, there is only one witneſs that proves it; but he ſtands uncontradicted; and therefore why are you not to believe him?---In the next place, it is not abſolutely neceſſary that this great coat ſhould be proved

proved to be his; for it is ſworn, not by one witneſs only, but by four, that the addreſs which he was to carry to France, as they ſay on the part of the proſecution, was taken out of his pocket-book.---The queſtion will be aſked again, how does it appear to be his pocket-book?---It appears in this way, that the papers found in that pocket-book were letters addreſſed to O'Coigly, written by a great many different perſons, but all to him.---How came all theſe papers, written to him, in that pocket-book, if it was not his?---And four witneſſes have ſworn poſitively, that this addreſs from the Secret Committee of England to the Executive Directory of France, was found in that pocket-book.—You ſee this is extremely ſtrong evidence; and, as I ſaid before, what have you to contradict it?---Nothing. On looking into the examinations which the priſoner underwent, it ſeems to me, that almoſt every fact there ſtated by him, is proved to be falſe. And if you find him telling different ſtories that are contradictory in themſelves, it goes a great way alſo againſt him.

When examined in Bow-ſtreet, he ſaid, there was a gentleman and his ſervant went on board with him, who were ſtrangers to him.---There was no gentleman and no ſervant who went on board with him, but Mr. O'Connor and his ſervant—Was he a ſtranger to Mr. O'Connor?—The direct contrary appears in all the evidence; and he admits, in that examination, that he ſaw the baggage come on board, which conſiſted of three mahogany boxes, and other things; and he rather thinks they belonged to the gentleman he ſaw on board the hoy---How happens it, that he there repreſents Mr. O'Connor and his ſervant to be total ſtrangers? for that clearly was not ſo. He is examined, the next day, before the Secretary of State---And what does he ſay there?---He aſſerts that there was no great coat belonging to him, and that there was none in the room; and the Counſel have relied very much upon the circumſtances under which the coat was found. They ſeem to have underſtood the evidence as if the coat had been left all night in the room in which they ſat in the courſe of the day, and that it remained there all night, whilſt O'Coigly and the other priſoners went to bed---There is no ſuch evi-

dence, nor any thing like it. It is proved that the coat was firſt found in the ſitting-room in which O'Coigly was, with the tea things before him, then going to breakfaſt, and when he was in the room himſelf. Does that prove that the great coat was there all the preceding night? Is it an uncommon or an extraordinary thing, that a man who goes to an inn, without any particular extraordinary errand, puts his great coat in the parlour when he is there, and when he goes to bed takes his great coat up with him, and when he gets up carries it down again? What is there improbable in this? There is no evidence that the great coat was left in the room all night, and perhaps you will think the fact muſt be taken otherwiſe. Before the Secretary of State he denies that he had any great coat. The fact that he had one, is proved beyond all poſſibility of contradiction. Can you ſuggeſt to yourſelves any reaſon why he ſhould deny that he had any great coat, if there was not ſomething in that great coat which he did not chooſe to have fixed upon him? I cannot ſuggeſt any other reaſon; and if there is no other reaſon for it, that becomes moſt important and material evidence. He is aſked more about the baggage, and he ſays in that examination, the gentleman took care of the baggage. That is directly contrary to the fact; Mr. O'Connor never took care of the baggage, it was all in other hands; and it is proved by one witneſs, that O'Coigly himſelf marched by the ſide of the cart which carried it to Margate.

Still you are told by the Counſel it muſt appear that he knew what this letter was. Now let us ſee how that is: firſt of all, you will pleaſe to recollect a little how it was directed, for the direction was, The Secret Committee of England to the Executive Directory of France. Had he got the letter in his cuſtody without knowing where he was to carry it! Is it poſſible a man could have ſuch a letter, and not know the addreſs, or to whom he was to convey it? The next thing is, what are the contents of the letter? "*The citizen who now preſents this "to you, and who was the bearer of our ſentiments before.*"—— Sending it by the priſoner, if he were the perſon who had been in the courſe of carrying communications from England to France, makes it ſtill ſtronger againſt him. Is that true, does

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he appear to have been in the courſe of carrying correſpondence before? The fact is allowed that he had been a great traveller into foreign parts; the paſſport proves that, and this alſo ſtands without any contradiction whatever; and he has travelled, they tell you, from place to place, within a very ſmall diſtance of time, and none of thoſe journies are accounted for. It is for you to put all this evidence together, and if the letter was found in his cuſtody in the manner that has been proved, wrapped up in his pocket-book, (and which pocket-book is proved to be his, in the manner I have ſtated) directed as this was, and accompanied with all the contradictions and falſehoods which he has been guilty of, and he was going to France for the purpoſe of delivering that letter, I can ſtate to you no ground on which it may be ſuppoſed that he was ignorant of the effect of that letter; and if he knew it, the caſe is decided as to him, and undoubtedly you ought to find him guilty. If you can doubt of thoſe facts, upon this evidence, or any thing elſe occurs to your minds, which affords a fair preſumption of innocence, by all means allow for every thing, conſiſtent with the truth of the caſe, which may make in favour of the priſoner.

With regard to the other priſoners, undoubtedly the evidence ſtands on different grounds, and, as it ſeems to me, requires more attention at your hands.

The firſt in order is Binns. Now, certainly, this man was alſo uſing great expedition, and taking journies with great haſte; he is proved to have gone from one place to another with as much expedition as a man could well travel, and he alſo goes by another name, for he went by the name of Williams. In the enquiry which he made for the purpoſe of getting a boat, he alſo uſed the names of perſons whoſe names he had no authority to uſe; he tells them he wants to get to the other ſide of the water; ſometimes he ſtated he was to go himſelf, at other times his friends were to go, but always aſked whether it made any difference if he took three or four perſons with him; and he agreed for the veſſel upon the terms that three or four men were to go by it. After he had made this agreement, he went to London with all poſſible diſpatch; he returned to Graveſend,

then

then to Canterbury, then to Whitſtable, then to Margate. It appears he ſolicited ſeveral perſons for boats, and agreed to give one hundred pounds for the hire of the veſſel, if they brought back a cargo of ſmuggled goods. The witneſſes ſay he made the application to go to France, and particularly aſked which port was neareſt. In making the bargain, he takes upon himſelf to inſure the ſafe return of the boat: the luggage he put under the care of Hayman, and he ſometimes repreſented himſelf as intending to go, ſometimes not; but he is proved to have been with Mr. O'Connor upon the 26th and 27th at Deal; he certainly is alſo proved to have a cypher character with him, and that is a circumſtance that raiſes ſuſpicion; but he denies that he knew the object of the journey. How or by whom he was employed to hire the veſſel, has not appeared by expreſs evidence, but I will ſtate preſently a way in which he might be employed. When he agreed for the boat, they tell you he offered to inſure the return of the boat, and he offered to depoſit money for the purpoſe of indemnifying them, in caſe the boat ſhould be ſeized there.

Now it is rightly ſtated by the Counſel, that if all were acting on the ſame deſign, they are all equally guilty, and you will pleaſe to recollect in this caſe, that if they were all going for the purpoſe of communicating this paper to the French Directory, yet the paper could only be in the hands of one. The queſtion is, whether you are ſatisfied, upon the evidence, that they all knew of this paper, for I think, upon the evidence, notwithſtanding the obſervations which have been made in reply, the caſe ſtands upon that. It is true, as the Attorney General told you, that the aſſignments in the indictment are ſo broad, that the priſoners might be convicted, of intending to carry intelligence of the ſtate of this country, and inviting an invaſion, though this letter was not known to them; but I do not ſee, upon any part of the evidence, that there is any ſort of communication which ever was intended to be carried from England to France, excepting what is contained in this letter. Therefore, though it be true that if other overt acts of treaſon were proved, the priſoner, or any of them, might be convicted on this indictment; yet as no other ſort of communication has

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been either proved, ſtated, or alluded to, it will be neceſſary for you to be ſatisfied that they were all acquainted with the contents of this letter; ſo it ſtands againſt him.

Was he or not the agent of all, or of one only? for a great deal depends upon that; and this is a caſe accompanied with ſo many circumſtances, that it is material to weigh them on both ſides. There is this reaſon for ſuppoſing that he might be employed principally, if not altogether, by Mr. O'Connor; he undoubtedly is proved to have offered to depoſit money to pay for this veſſel, if any accident happened. Who was likely to find that money? It ſeems, by all the evidence, the whole party, except Mr. O'Connor, were beggars. Who was to find the money but Mr. O'Connor? and if he was going in a great hurry, ſuppoſing that Binns was employed by him only, Binns might ſay, as to the loſs of this veſſel, if ſhe does coſt O'Connor three hundred pounds, money is no object to him, and therefore I will agree for the veſſel. That is one way of putting it, and it deſerves your conſideration. If he really was only acting for Mr. O'Connor, it does not neceſſarily follow that he knew the contents of this paper, or that O'Coigly was going with any information to the French Directory. The circumſtance of his offering to inſure the veſſel, undoubtedly, creates a ſuſpicion, becauſe, on the one hand, it might proceed from a pretty great confidence which the previous acquaintance he had with the Directory inſpired him with; or, on the other hand, it might proceed from the circumſtance I ſtated, that he found Mr. O'Connor in a great hurry to go, and thought the money no great object to him, and therefore took the riſk of hazarding ſo much of Mr. O'Connor's money; it makes a wide difference whether one or the other be true; there is that opening, which is for your conſideration, whether he did or did not act in this buſineſs merely as the agent of Mr. O'Connor. I have told you the reaſon why it might be ſo, and if you think he did, it ſeems to me there is nothing elſe to affect him. His conduct in hiring the veſſel, the great hurry he was in, and the undertaking to inſure the boat, are the great facts againſt him, to be ſure. Theſe are the circumſtances from which his motive muſt be inferred, and whether his conduct is to be aſ-

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cribed to his knowledge of the paper, and his desire to convey it to France, or only to assist O'Connor in getting abroad, without any knowledge of the paper, is for you to judge. If you think he was only employed by O'Connor, and knew nothing of the paper, you ought to acquit him. If on the other hand, you think, from all the circumstances, he was fully apprized of the contents of the letter, in that case you ought to convict him.

The next prisoner is Mr. O'Connor, and his case certainly stands upon many facts that are liable to different constructions, and here is a character given him by some of the first, and some of the most respectable characters in this kingdom—I think I may say, generally, that no man's character can be better established, or by men of more respectability and more honour than the witnesses who have been called for him; but still I cannot say that character ought to decide; character, as you have been told at the bar, and which you must have learned over and over again, if you ever have served upon Juries before, can only weigh in doubtful cases. If the fact be doubtful, you ought to let the character weigh, and turn the scale in favour of innocence; but if the facts are proved clearly to your conviction, and you shall be satisfied that this prisoner knew the contents of the paper, you ought to find him guilty. With respect to him as well as Binns, I see nothing in any part of the case from whence to ascribe the guilt charged to him, unless you find an acquaintance with the paper. I admit he might on this indictment be convicted of other acts of treason, if they were proved by evidence; but that evidence does not exist. He did not tell his name at first, after he was taken up; he denied all knowledge of the baggage in the first instance; as to the things carried to the Tower, they were proved to be his; and he certainly had to the Duke of Portland admitted, that part of this baggage was his, because when the witness carried stockings to the Tower, he told him, he had brought the stockings which he had written for. You see, therefore, he must have applied for them. There is this fact against him, that he denies all acquaintance with O'Coigly, and that is not true, for one letter is read, which is proved to

be his hand-writing, and which ſhews he was not ſo great a ſtranger to O'Coigly, as he repreſented. Beſides, he had dined with him, and ſeen him ſeveral times at Bell's. He told Bell he had not known him above a day or two, but he ſaid that he was one of the perſons intended to go abroad. There appears to be no doubt upon this part of the caſe, from the number that Binns agreed for; Binns agreed for himſelf, and four more beſides himſelf. What other perſons were there in exiſtence, who were likely to go, beſides thoſe four? The direction to Hayman ſeems to be a very ſmall circumſtance in the caſe, he had the ſame direction that Binns had in his cuſtody, and it was in the purſe; that direction ſeems to me to carry it no farther than this, it is an intimation to him where to get the baggage, and he was to get it according to this direction. It is proved that O'Coigly was frequently at Bell's, and how that agrees in any degree with the converſation he held at Bell's, or how that letter is reconciled with the information which Bell ſays O'Connor gave to him, viz. that he had never known O'Coigly till within a day or two, is not eaſily reconciled. He added that he reluctantly made acquaintance with him; but he certainly had made acquaintance with him, as appears by the letter, and his aſking him to dinner; and he alſo knew his real name, though he introduced him by a falſe one. Bell ſays, he at times appeared very uneaſy at having agreed to go with him; what that aroſe from we have not learned in the cauſe, that might have ariſen from different circumſtances. But how happened it that Mr. O'Connor did not go to Hamburgh? It ſeems to me there is a ſuſpicion from that, and yet I do not ſtate it as more than ſuſpicion. He had received advice from a very reſpectable gentleman moſt poſitively to go to Hamburgh. Now if this veſſel was hired by Mr. O'Connor, as the great probability ſeems to be, from the circumſtances I mentioned, that he was to find the money: why might not he juſt as well have hired the veſſel for Hamburgh, as for a French port? Theſe are circumſtances of ſuſpicion, but I do not ſtate them as more. A French port was made the *ſine qua non*, and the ſhip was to go there. Mr. Sheridan alſo adviſed him at all events to go to Hamburgh.

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The next thing is what is proved to have paſſed between Mr. O'Connor and O'Coigly reſpecting the money. Part of this money is tied up with a ticket denoting that it belonged to O'Coigly. The money is found altogether, and ſome how or other, they did not make their accounts right. Mr. O'Connor directs perſons to write to him from London by Williams, at Canterbury, where he ſays he ſhall receive it on the morrow—different accounts are given of the places where he was gone, but that is all by other people, and therefore makes nothing againſt him.—Then, there is the letter to Lord Edward Fitzgerald, which certainly is an improper letter, but I do not think that goes to ſhew whether he did know the contents of this paper or not. The key is alſo an aukward circumſtance againſt him. What purpoſe could that ſerve but ſome ſecret correſpondence. By that key it appears that the name Williams was to be uſed inſtead of France. He knew alſo that the perſons with whom he was travelling were going by feigned names. This is a circumſtance that would have alarmed any reaſonable man's mind.—What does he ſay in his examination? When examined before the Privy Council, he ſays, 'He had had an intention to have gone to 'Hamburgh?' The terms he had had, imply, that though he once entertained that idea he had laid it aſide; why had he done ſo, or why not go to Hamburgh?—What made the change is not mentioned in this examination. He there ſays, 'That he was expecting letters conveying intelligence of his 'bail, which were to determine the time of his going to 'Ireland'.—One fact is, that he had ſold his property in Ireland, and he was going abroad, going to France. But they ſay he had other buſineſs, and that he was going upon another concern.—It ſeems to me, as if he was going, not with an intention to return again; but whether he was going as the carrier of this letter, or merely for the purpoſe of tranſacting other buſineſs, is to be conſidered by you. Theſe are the leading facts that make againſt him.

Now let us ſee how the caſe ſtands for him—It is ſaid firſt by his counſel that two men might go in the ſame veſſel with different views; undoubtedly they might—it is more or leſs

probable, according to the circumſtance, what that veſſel is—in a general veſſel that takes up all paſſengers that it can get, men coming from different quarters of the world—from different parts of the kingdom, and acting upon very different deſigns, may get together in the ſame veſſel, juſt as they do in a ſtage coach; it is not ſo ſtrong here if you underſtand the veſſel to have been hired or paid for by Mr. O'Connor. Yet ſtill the fact might happen in the way that they ſtate it. Mr. O'Connor had agreed to let O'Coigly go with him—now if that was all, and if the declaration which he made to Mr. Bell was made fairly at the time, that might happen to be the caſe; for ſays Mr. Bell, he was very much concerned afterwards at having made the engagement, and if there was nothing more in the caſe than that he had agreed to take him, becauſe he was a poor diſtreſſed Iriſhman, and could not pay for his paſſage, certainly no criminality attaches on O'Connor for ſo taking O'Coigly into his veſſel. Before you find him guilty you muſt be ſatisfied that he knew the contents of the paper---Undoubtedly that knowledge may be proved moſt ſatisfactorily by the conduct and the behaviour of the priſoner himſelf, and what I have ſtated to you is what ariſes from his conduct. I have told you what appears againſt him, and I will ſtate more which is for him, and you will apply the evidence, and judge which is moſt likely to be conſiſtent with the truth; and as the evidence ſatisfies your minds, one way or the other, you will have to find your verdict in this caſe. One circumſtance for him, and certainly not an immaterial one is, that he is not proved ever to have been a member of any political Society, either in England or in Ireland. There is no evidence whatever of that.

As to the obſervation made by the counſel about the cypher, as far as it went, the cypher moſtly relates to Ireland, but ſtill it muſt be remembered, that England is not forgotten, nor is Dover forgotten; there are characters in the paper which deſcribe each of them, but in other parts it is more applicable to Ireland than it is to England; I think alſo that you may take it to be pretty clear that Mr. O'Connor was not the perſon alluded to in the paper addreſſed to the French Directory,

for the paper ſays, the bearer is the perſon who had gone for the Secret Committee before, and is in great haſte. There is no pretence for ſaying that Mr. O'Connor had ever borne any meſſage for them before; the paper alludes to an Iriſh delegate who is preſent among them; there is no evidence that Mr. O'Connor ever was amongſt them, or of any other ſociety whatever; they ſay alſo, that he had other buſineſs in France; now that letter certainly is to be read with very different meanings; and if the caſe admits of reaſonable doubt, probably you will make allowances for it; the letter ſays, when he gets to *Williams* (which means France) he will be active there.—The witneſſes have ſtated to you a ſubject upon which he might be active, though he knew nothing of this paper: that is, that he had a very intimate acquaintance, as it appears by the letter, with Lord Edward Fitzgerald; and Lord Edward Fitzgerald's lady had property in France, which property it appeared, from ſome of the gentlemens evidence, Lord Edward had never got poſſeſſion of; and the activity ſpoken of in the letter, it is ſaid, relates to that property, which he hoped to ſecure for his friend. If the letter means no more, there is no harm in it. Undoubtedly the mere poſſeſſion of a cypher does not amount to treaſon, but ſtill it does raiſe a ſuſpicion, and the queſtion is whether, upon the whole of the evidence, you find ſuch facts eſtabliſhed againſt Mr. O'Connor as convince your minds of his guilt. Before you can convict this priſoner, or Binns, I think you muſt be ſatisfied that they knew the contents of this paper, becauſe there is no other evidence but that letter, from whence to impute any ſpecies of treaſon, or communications from England to France, to either of them. So far the queſtion ſtands pretty much upon the ſame ground as to the priſoners O'Connor and Binns; and as to O'Connor there is this circumſtance alſo certainly in favour of him more than in favour of Binns, namely, that the paper, which is the principal thing in queſtion, was not written till the 6th of February, but it is clear, by Mr. Bell's evidence, if you believe him, that Mr. O'Connor had made up his mind about quitting the kingdom and going out of the country ſo early as the 20th of January. Now, if he had made up his mind ſo early as

that to quit this country, it does not ſeem that ſuch intention was governed or occaſioned by the letter.

Mr. Attorney General. The date of the paper is the 25th of January.

Mr. Juſtice Buller. It is a French date; I thought you ſtated it to be in February, but if it were in January the obſervation ariſing from it is not ſo ſtrong as in the way I underſtood it; but if the priſoner had made up his mind, and had a determined reſolution to go out of this country, before the paper exiſted, it does afford a ground from whence to conclude that he was not one of the perſons employed to carry this paper. The queſtion is, whether on the one hand you are ſatisfied that he did not know the contents of this paper, and was going upon the ſame errand, although O'Coigly was the bearer of the paper, if you are ſatisfied of that, you ought to find him guilty, but if the facts hang at all in equal ſcales, it is a caſe in which character ought to weigh, and his character has certainly been proved to be as good as any man could eſtabliſh.

I have ſtated the facts as they may be preſſed and underſtood on both ſides, becauſe you ſhould exerciſe your judgment upon them. The priſoners whoſe caſes remain to be conſidered are the two ſervants; the queſtion is ſtill the ſame here, namely, did they know the contents of this paper? When five men are going together in the ſame boat, before we conclude that ſome did know, and others did not know, what errand the boat was going upon, certainly we ought to find ſome principle upon which to diſtinguiſh their caſes; the circumſtance here is the character in which they appear; it was ſtated in the reply that Allen was not a ſervant, but no evidence has been given of that at all; he never appears to have been ſeen in any character, or company, appearing otherwiſe than as a ſervant; there is no evidence that ſhews him, upon any occaſion, acting otherwiſe. If he really had filled any other character in life, I ſhould have told you, without heſitation, that the circumſtances of his aſſuming a falſe character of a ſervant, makes ſtrongly againſt him; for why do men aſſume falſe characters if they are not acting in illegal deſigns; but it does not appear that he ever appeared in any other light than as a ſervant, and

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in that character he did appear in all tranſactions here. He lived with one who is clearly admitted to be a ſervant, namely, the boy. When it is eſtabliſhed as a clear fact that theſe were two ſervants attending their maſters, is it likely that they ſhould be acquainted with the contents of ſuch a paper as this? Does not the mere circumſtance of their being ſervants exclude the probability of their knowing that, and if you think they did not know it, you ought not to find them guilty. Having ſaid thus much I truſt I have diſcharged my duty both to the public, the priſoners, and to you. As to the law, I have ſtated that clearly and explicitly, becauſe it is clear and admits of no doubt. As to the fact, I have ſtated what has been proved upon each ſide; I have ſtated where it ſeems to me, the evidence that has been given, may admit of different conſtructions, which I have done, in order to lay the caſe fairly before you, for your conſideration. Perhaps, as to the firſt priſoner, I have ſtated my own opinion pretty ſtrongly; I have done that, becauſe I am not able to find any doubts upon the evidence. It is my duty to ſtate my opinion to you, becauſe you have a right to know it; but you are not bound to follow it; the Court are bound to give their opinion, but having done that, it is for you to exerciſe your judgment upon the different parts of the evidence, and remember it is your verdict, not mine. Let your opinion be what it may, pronounce it upon the evidence which has appeared againſt the different priſoners at the bar; and I am ſatisfied, that when you turn the evidence in your own minds, you will pronounce that verdict, which is conſiſtent with the truth and juſtice of the caſe.

The Jury withdrew at fifty minutes paſt twelve o'clock at night, and returned into Court at twenty-five minutes paſt one, with a Verdict, finding

JAMES O'COIGLY, Guilty.
ARTHUR O'CONNOR, Not Guilty.
JOHN BINNS, Not Guilty.
JOHN ALLEN, Not Guilty.
JEREMIAH LEARY, Not Guilty.

MR. JUSTICE BULLER.

James O'Coigly, you ſtand convicted of the crime of High Treaſon, and upon the evidence which has been given, I have not been able to find the ſmalleſt doubt, which I could leave to the conſideration of the Jury, and on which they could honeſtly be ſtated to be at liberty to form the ſame favourable opinion of your caſe, which they have done of the caſe of the other priſoners at the bar.—What are the motives which actuate the human mind, when it is led into the commiſſion of the blackeſt and the deepeſt crimes, it is often very difficult to ſay. It is extremely ſo, when the crime is directed againſt a Prince, whoſe virtues and whoſe mildneſs have excited applauſe and approbation from all mankind, and againſt whom detraction itſelf cannot hint a fault; or, when it is levelled againſt the exiſtence of a Conſtitution, which has been framed wholly for the ſecurity of the liberties, and the preſervation of the property, of thoſe who live under it. Every man who has any property in any part of his Majeſty's dominions, whether he be Turk, Jew, Infidel, Papiſt, or Proteſtant, is equally intereſted in the preſervation of this Government; all of them have been, and ſtill are, continually obliged for its moderation and its juſtice: for they have had the ſame indulgence in the enjoyment of their religion, the ſame protection, and the ſame benefit in the diſtribution of the common juſtice of the realm, as any other of the King's ſubjects. None of them could ever expect to mend their condition under a French dominion; but the contrary is foreſeen by all conſidering men, and all deſcriptions of perſons would be reduced to a moſt diſmal ſtate, if you had obtained your end.

It is againſt all the rules of reaſon, and againſt the experience of all ages to imagine, that if the French had become maſters of this country, they would ſpare a reſtleſs and diſcontented race of men, more than thoſe who have ſhewed themſelves orderly members of ſociety, and capable of living quietly under a regular and well ordered government. It is not a zeal for any particular ſociety of perſons, or for the eſtabliſhment of any principles, which can tend to the happineſs

of

of mankind in general, which would incite the French to invade England; but it is the pride and ambition to conquer theſe kingdoms, and to reduce them to be a province of France. The pretence of diffuſing liberty may ſerve to delude ſome warm and unwary zealots to engage in ſuch plots, who do not conſider that if they ſhould be ſucceſsful, they would be as certainly deſtroyed as others, but with more diſadvantage to themſelves: for after they ſhall have ſurvived the liberty of their country, they will be at the mercy of their conqueror, who can never think it his intereſt to truſt thoſe, who have ſhewn themſelves incapable of living quietly under one of the mildeſt governments which exiſts in the known world, and therefore will naturally deſpiſe them as traitors to their own country, and unworthy of the confidence of any other.

When we ſpeak of liberty, we ſhould not forget what a very celebrated French writer ſays on that ſubject. He tells us that there is no word which has admitted of more various ſignifications, and has made more different impreſſions on human minds than that of liberty. Some, ſays he, have thought it a right to bear arms, and be enabled to uſe violence. Some have annexed it to one form of government, and others to another. But liberty is a right of doing whatever the laws permit; and if a citizen ſhould do what they forbid, he would no longer be poſſeſſed of liberty, becauſe all his fellow ſubjects would have the ſame power. He adds, that to have liberty, it is requiſite that a government ſhould be ſo conſtituted, as that one man need not be afraid of another. He has alſo told us that there is this inconvenience in conqueſts made by democracies, namely, that their government is always odious to the conquered country, and is much more oppreſſive than monarchy, as the experience of all ages and all countries evinces.

That any ſet of men ſhould work themſelves up to an opinion and belief, or even to a hope, that if ever the French ſhould conquer this country, they will afterwards relinquiſh it to thoſe who invite them here, is as extravagant as the idea which prevailed in the laſt century, that murder in this world would prepare the way for ſainthip in the next. The recent examples of what they call their diſintereſted conduct, and

which

which they have ſhewn lately towards Holland, Switzerland, and America, muſt leave that queſtion beyond all poſſibility of doubt, and are the moſt convincing proofs that their whole ſyſtem is a compound of oppreſſion, of tyranny, and of venal corruption.

I do not ſuppoſe that either a regard, or a miſtaken zeal for any religion of any deſcription, has now, in the ſmalleſt degree, contributed to an attempt, or deſire, to ſubvert this Country, or its Conſtitution. On the contrary, the modern way of corrupting the human mind, has been to eradicate every idea of religion, and to deprive every virtuous mind of the comfort which it might derive from the aſſurance of a future ſtate.—It is not my province to enlarge here on that important topic; but if you have ſuffered your mind to be tainted by ideas on that ſubject, which occaſion miſery here, and endanger ſalvation hereafter, I can only expreſs a hope, that before you launch into a vaſt eternity, it may pleaſe the Almighty God of heaven to open your underſtanding, and to lead you to a true and perfect conviction of your errors, to a ſincere repentance of them, and not to let the firſt thing which undeceives you, be death itſelf—To that God every Engliſhman will addreſs himſelf to implore the protection and ſalvation of his country—to the ſame awful power you will do well to addreſs yourſelf for mercy and forgiveneſs. It is my duty to ſee that the crime with which you are charged, has been proved againſt you. It has been ſo fully proved, that the Jury in your caſe could form no concluſion different from what they did. No man can doubt the propriety of their verdict, and upon that verdict I am bound to pronounce the judgment of the law upon you, which is, and this Court does adjudge,

That you be taken from hence to the place from whence you came, and from thence you be drawn on a hurdle to the place of execution, there to be hanged by the neck, but not until you are dead: but that you be taken down again, and that whilſt you are yet alive your bowels be taken out and burnt before your face, and

and that afterwards your head be ſevered from your body; your body to be divided into four quarters, and your head and body be at the King's diſpoſal.—And may God Almighty have mercy on your ſoul.

Mr. Arthur O'Connor was detained on a charge of High Treaſon, by virtue of a warrant from his Grace the Duke of Portland, dated March the 22d.

John Binns, John Allen, and Jeremiah Leary, were diſcharged the next day.

James O'Coigly was executed at Penningdon Heath, on Thurſday, the 7th of June.

After having been ſuſpended about ten minutes, he was cut down, when his head was ſevered from his body (the King having graciouſly remitted the remainder of the ſentence) and the head and the body were immediately buried under the gallows.

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